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Federal Act on Communication Platforms and Search Engines (ComPA)

of ...

Preliminary draft

*The Federal Assembly of the Swiss Confederation,
based on Article 95 paragraph 1 of the Federal Constitution¹,
and having examined the Federal Council Dispatch of xx Month xxxx²,
decrees:*

Chapter 1 General Provisions

Art. 1 Aim

The aim of this Act is to strengthen the rights of users of communication platforms and search engines and to promote transparency about the way these platforms and search engines work and the risks they entail.

Art. 2 Scope

This Act applies to providers of the following communication platforms and search engines offering their services in Switzerland as part of their economic activity, regardless of their place of registered office:

- a. communication platforms:
 1. whose main function is to store user content and make it publicly accessible for the purposes of opinion-forming, entertainment or education, and
 2. that are used by at least 10 per cent of the Swiss population at least once a month on average, calculated over a period of six months;
- b. search engines that meet the requirement set out in letter a number 2.

¹ SR 101
² BBl 2025 xx

Art. 3 Definitions

In this Act:

- a. *user* means a natural person or legal entity who uses a communication platform or search engine, regardless of whether they are registered with or have subscribed to the service in question;
- b. *recommender system* means a fully or partially automated system designed to suggest content to users or to prioritise content.

Chapter 2 Responsibilities of Communication Platform or Search Engine Providers**Section 1 Notice****Art. 4** Notice procedure

¹ Communication platform providers must establish a procedure by which users can notify them of content they have accessed from Switzerland and believe to be illegal. As a minimum, users must be able to notify them of content that they believe constitutes one or more of the following offences:

- a. portrayal of acts of violence (Art. 135 of the Swiss Criminal Code [SCC]³);
- b. defamation (Art. 173 SCC);
- c. intentional defamation (Art. 174 SCC);
- d. insult (Art. 177 SCC);
- e. threatening behaviour (Art. 180 SCC);
- f. coercion (Art. 181 SCC);
- g. sexual harassment (Art. 198 SCC);
- h. public incitement to commit a felony or act of violence (Art. 259 SCC);
- i. discrimination and incitement to hatred (Art. 261^{bis} SCC).

² Providers must design the procedure in such a way that users can, as a minimum, include the following information in their notice:

- a. the exact electronic location of the content being notified;
- b. the reason for notifying the provider of the content;
- c. their own name and electronic contact details.

³ If the notice contains the notifying user's electronic contact details, the provider must send a confirmation of receipt without delay.

Art. 5 Notice processing and obligation to inform notifying users

¹ Communication platform providers must process all notices relating to the offences listed in Article 4 paragraph 1 and reach a timely decision on whether to take action.

² If the notice contains the notifying user's electronic contact details, the provider must inform the user of its decision without delay.

Section 2 Duty to Inform Users Affected by Restrictive Measures**Art. 6**

¹ If communication platform providers take restrictive measures, they must inform the user whose content is affected.

² The following measures are considered restrictive if taken by providers because they suspect content of being illegal or incompatible with their general terms and conditions:

- a. removing specific content provided by the user or restricting the visibility of such content, including disabling access to or demoting content;
- b. suspending, terminating or restricting users' ability to generate income from the content they provide;
- c. excluding users from the provider's services;
- d. temporarily blocking or deleting the user's account.

³ Paragraph 1 shall not apply if:

- a. the user's electronic contact details are unknown; or
- b. the measure is used in relation to deceptive high-volume commercial content.

Section 3 Internal Appeals Procedure**Art. 7**

¹ Communication platform providers must establish an internal appeals procedure which is free of charge and through which:

- a. reporting users may submit an appeal against a decision taken under Article 5;
- b. users whose content is affected may submit an appeal against restrictive measures.

² Users must be given at least six months from being notified of the decision within which to submit an appeal.

³ Providers must process all appeals in a timely manner and inform users of their decision.

⁴ The appeal must be processed under the supervision of an appropriately qualified person and not exclusively by automated means.

Section 4 Out-of-Court Dispute Settlement

Art. 8 Access and participation

¹ Reporting users and users whose content is affected by restrictive measures may, at any time, refer their case to an out-of-court dispute settlement body approved in accordance with Article 11.

² Communication platform providers must participate in the dispute settlement unless a conciliation authority, court or arbitration panel in Switzerland is or has already been involved in the matter.

Art. 9 Procedure

¹ Out-of-court dispute settlement proceedings must be completed within 90 calendar days of the appeal being submitted. In extensive or complex cases, the out-of-court dispute settlement body may, at its own discretion, extend this deadline by a maximum of 90 calendar days.

² The dispute settlement body shall draw up a report on the outcome of the proceedings and send it to the parties involved. The approved out-of-court dispute settlement body shall not have the power to impose a binding settlement of the dispute on the parties.

Art. 10 Costs

¹ The out-of-court dispute settlement body may charge the user a nominal fee. Users who act in bad faith may be ordered by the out-of-court dispute settlement body to pay some or all of the costs of proceedings.

² All other costs of proceedings must be borne by the communication platform provider, regardless of the outcome of the proceedings.

³ If the out-of-court dispute settlement body decides in favour of the user, the communication platform provider must reimburse the user for any nominal fee paid.

⁴ The costs imposed may not exceed the costs incurred by the dispute settlement body. They shall be based on the dispute settlement body's schedule of costs.

Art. 11 Approval

¹ The Federal Office of Communications (OFCOM) shall approve out-of-court dispute settlement bodies at their request.

² The Federal Council shall regulate the approval procedure, in particular the requirements for independence, dispute settlement proceedings and necessary expertise.

Art. 12 Reporting

Out-of-court dispute settlement bodies shall provide OFCOM with an annual report on their activities; this report must include information about the way in which they work and the number, outcome and duration of dispute settlement proceedings.

Section 5 General Terms and Conditions**Art. 13** Transparency obligation

¹ If communication platform or search engine providers apply restrictive measures to user-provided content, they must ensure that the following information, as a minimum, is included in their general terms and conditions:

- a. information on which user-provided content is subject to restrictive measures; and
- b. information on the nature and implementation of the measures.

² Communication platform providers must include information about their notice procedure (Art. 4), notice processing (Art. 5) and internal appeals procedure (Art. 7) in their general terms and conditions.

³ The general terms and conditions must be written in German, French and Italian, using language that is easy to understand.

⁴ Communication platform or search engine providers must inform users in a suitable manner of any significant changes to their general terms and conditions.

⁵ They must publish the general terms and conditions and a summary thereof publicly and ensure that these are easily accessible.

⁶ Paragraphs 1–5 shall apply regardless of the prevailing law.

Section 6 Due Diligence Obligations**Art. 14**

¹ Communication platform or search engine providers must act diligently, non-arbitrarily and in a non-discriminatory manner when they:

- a. implement restrictive measures;
- b. carry out the procedures set out in Sections 1 and 3.

² The procedures must be available electronically, easily accessible and user-friendly. They must be carried out using easily understandable wording in an official language chosen by the user concerned.

³ Communication about providers' decisions must include the following information in particular:

- a. the reasons for the decision in relation to the individual case;

- b. information as to whether automated means were used to make the decision and, if so, which;
- c. advice to users that they may submit an appeal through the internal appeals procedure or refer the case to an out-of-court dispute settlement body.

Section 7 Advertising, Commercial User Content and Recommender Systems

Art. 15 Advertising

¹ Communication platform or search engine providers must clearly mark advertisements that they disseminate in return for payment or similar consideration with the label 'Advertisement'.

² They must ensure that users have easy access via the advertisement to the most important parameters determining which advertising is displayed to them.

Art. 16 Advertising repository

¹ Communication platform or search engine providers must establish a publicly accessible and searchable repository that provides a record of the advertisements referred to in Article 15 paragraph 1 that are displayed on the communication platform or search engine (advertising repository).

² Advertisements that have been removed or blocked because the communication platform or search engine provider suspected their content of being illegal or incompatible with its general terms and conditions shall not be recorded in the advertising repository. Instead, the advertising repository shall record the reasons why the advertisement was removed or blocked and state whether automated means were used to make this decision and, if so, which.

³ The advertisement must be available in the advertising repository for the entire time it is live on the communication platform or search engine and for a further year after it is displayed for the last time.

⁴ The advertising repository must not contain users' personal data.

⁵ The Federal Council shall regulate the information that must be included in the advertising repository.

Art. 17 Commercial content provided by users

Communication platform or search engine providers must offer users the option to indicate that they are providing content for commercial purposes and that, by providing the content, they aim to encourage the sale of goods or services or promote a company's image.

Art. 18 Recommender systems

¹ If communication platform or search engine providers use recommender systems, they must include the following information in their general terms and conditions:

- a. the most important parameters underlying the recommender systems and their weightings;
- b. any options available to users to change or influence the most important parameters underlying these recommender systems.

² If communication platform or search engine providers use recommender systems, they must also provide at least one option for each of their recommender systems that is not based on profiling as defined in Article 5 letter f of the Data Protection Act of 25 September 2020⁴ (FDAP).

Section 8 Transparency Report and Risk Assessment**Art. 19** Transparency report

¹ Communication platform or search engine providers must submit a transparency report to OFCOM every year. As a minimum, they must include the following information in the transparency report:

- a. the average monthly number of users in Switzerland, calculated over a period of six months;
- b. information on the functionality of the automated or non-automated activities they use to identify specific content and to take restrictive measures if necessary (content moderation); and
- c. information on quality assurance for content moderation, including the automated systems and human resources used.

² Every six months, they must update the information under paragraph 1 letter a, send it to OFCOM and publish it.

³ As a minimum, communication platform providers must also include the following information in the transparency report:

- a. the type and number of restrictive measures in accordance with Article 6 paragraph 2 they have taken;
- b. the number of reporting procedures in accordance with Article 4 carried out and reports in accordance with Article 5 processed, as well as the type of measures taken;
- c. the number of cases handled by the internal appeals procedure in accordance with Article 7 and by out-of-court dispute settlement bodies in accordance with Articles 8–12.

⁴ The transparency report must not contain any personal data.

⁴ SR 235.1

⁵ The Federal Council shall regulate the formal requirements regarding the form of the transparency report and specify the reporting period and submission deadlines.

⁶ Communication platform or search engine providers shall publish the transparency report in a suitable form. OFCOM may also publish the reports.

⁷ The information about the type and number of restrictive measures in accordance with Article 6 paragraph 2 must be sent to OFCOM without including the content in question. OFCOM may publish the information in a database.

Art. 20 Risk assessment

¹ Communication platform or search engine providers must carry out a risk assessment every year and present the results of the assessment in a report. This report shall contain comprehensive information on the systemic risks in Switzerland that are caused or exacerbated by communication platforms and search engines.

² As a minimum, the report on the results of the risk assessment shall include information on the following systemic risks:

- a. dissemination of suspected illegal content;
- b. the adverse effects on the exercise of users' fundamental rights;
- c. negative consequences for public opinion-forming, election and popular vote procedures, public safety and order, and public health.

³ The Federal Council shall regulate the form and procedure for reporting, in particular the submission deadlines.

⁴ Providers must publish the report on the results of the risk assessment and send it to OFCOM, along with the assessment report as set out in Article 25. OFCOM may also publish the report.

⁵ Providers must retain the documents used as the basis for the risk assessment for at least three years from the date on which the risk assessment was carried out.

Section 9 Point of Contact

Art. 21 Designation and access

¹ Communication platform or search engine providers must designate a point of contact through which users and OFCOM can access them quickly and electronically in an official language.

² They must publish information about their point of contact, keep it up to date, and ensure that it is easy to access.

Art. 22 Communication

¹ The point of contact must comply with the principles of accessibility in its communication.

² Communication platform or search engine providers must not use exclusively automated means to communicate.

³ They must enable users to interact with them in a user-friendly way.

Section 10 Legal Representative

Art. 23 Designation

¹ Communication platform or search engine providers not domiciled in Switzerland must designate a legal entity or natural person in Switzerland as their legal representative.

² They must provide OFCOM with this entity's or person's contact details within three months of being entered on the list in accordance with Article 29 paragraph 3. They must also publish the contact details, keep them up to date, and ensure that they are easy to access.

Section 11 Independent Evaluation

Art. 24 Independent evaluation

¹ Communication platform or search engine providers must have their services evaluated annually at their own cost to ensure compliance with the obligations under Chapter 2.

² OFCOM shall approve independent evaluation organisations at their request. The Federal Council shall govern the approval procedure, in particular the requirements for independence, required expertise and capacities within the organisations.

³ Communication platform or search engine providers must cooperate with the evaluation organisations to ensure that these organisations can carry out evaluations in a timely, effective and efficient manner. In particular, providers must grant evaluation organisations access to all information and premises relevant to the evaluation.

Art. 25 Evaluation and report on measures

¹ After each evaluation, the evaluation organisation must produce a written evaluation report in an official language that contains the following information in particular:

- a. its own name and address;
- b. the name, address and point of contact of the evaluated communication platform or search engine provider;
- c. the evaluation period;
- d. a declaration of interests;
- e. a description of the individual evaluation subjects;
- f. the method used;

- g. a description and summary of the most important findings from the evaluation;
- h. a list of third parties who were consulted;
- i. the circumstances and reasons behind any impediments to the evaluation;
- j. a statement on the outcome of the evaluation;
- k. operational recommendations if the report identifies any shortcomings.

² If the evaluation report identifies any shortcomings, the communication platform or search engine provider must take measures to remedy these shortcomings and present the following information in a report on the measures taken:

- a. how it is implementing the evaluation organisation's recommendations; or
- b. the reasons why it is deviating from the recommendations and the alternative measures it has taken to remedy the shortcomings.

³ Within three months of receiving the evaluation report, providers must publish the evaluation report and, if any shortcomings are identified, the report on the measures they have taken. Both of these reports must have all personal data removed and be sent to OFCOM. OFCOM may also publish the reports.

⁴ The Federal Council shall regulate the form and procedure for reporting, in particular the submission deadlines.

Section 12 Data Access

Art. 26 Data access for research bodies and civil society organisations

¹ The following bodies and organisations may apply to OFCOM for access to data held by communication platform or search engine providers:

- a. research bodies in accordance with Article 4 of the Federal Act of 14 December 2012⁵ on the Promotion of Research and Innovation;
- b. civil society organisations, provided they conduct scientific research in the public interest and are independent of commercial interests.

² The application must be substantiated. It must specify the communication platform or search engine providers and the data to which access is requested.

³ OFCOM shall approve applications from bodies or organisations specified in paragraph 1 if the following conditions are met:

- a. The bodies and organisations demonstrate that the data to which they are requesting access will contribute to detecting, identifying and understanding systemic risks in accordance with Article 20.

⁵ SR 420.1

- b. They guarantee the security and confidentiality of the data and take appropriate measures to ensure that only employees who directly need the data to perform their duties are given access to said data.
- c. Bodies and organisations use the data only for the research purposes described in the application.
- d. They publish the results of their research work free of charge after it has been completed.

⁴ OFCOM shall send the approved applications to the relevant providers and require them to grant access to the relevant data within a reasonable period.

⁵ The Federal Council shall regulate in particular the form and content of applications, the procedure and the processing deadlines.

Chapter 3 Supervision and Funding

Art. 27 Supervision

OFCEM shall ensure compliance with this Act and the associated implementing provisions and shall issue the necessary rulings.

Art. 28 Obligation to provide information

¹ Communication platform or search engine providers must provide OFCEM with information within a reasonable period and disclose to it all data specified in Article 38 that is required for its supervisory and evaluation duties.

² Legal representatives of communication platform or search engine providers are also subject to the obligation to provide information.

Art. 29 Supervised companies

¹ In order to determine which communication platform or search engine providers should be subject to this Act, OFCEM shall contact providers that it regards as meeting the requirements set out in Article 2. The providers contacted must supply OFCEM with information on the number of users of their services.

² If communication platform or search engine providers are not domiciled in Switzerland, the request for information under paragraph 1 shall be made by means of international administrative assistance.

³ OFCEM shall publish a list of communication platforms and search engines subject to this Act.

Art. 30 Fees

¹ OFCEM shall levy fees for supervisory procedures in individual cases and for services.

² The Federal Council shall determine the amount of the fees, taking account of the administrative costs.

Art. 31 Supervision charge

¹ OFCOM shall levy an annual supervision charge on communication platform or search engine providers in order to cover any costs of its supervisory activities that cannot be covered by fees.

² The amount of the charge shall be based on:

- a. the number of communication platforms and search engines subject to the Act during the relevant time period;
- b. the number of half-years during which the relevant communication platform or search engine was subject to the Act.

³ The amount of the charge may not exceed 0.05 per cent of the provider's worldwide profit in the previous financial year.

⁴ The Federal Council shall regulate the details of the calculation and determine the minimum amount for the charge.

Chapter 4 Administrative Measures and Sanctions in the Event of Violations of the Law

Art. 32 Administrative measures

¹ If OFCOM establishes a violation of the law under this Act, it may require the legal entity or natural person responsible for the violation to:

- a. remedy the violation and take measures to prevent its recurrence;
- b. inform OFCOM of the measures taken.

² If the measures prove ineffective or there is reason to believe they are ineffective, OFCOM may instruct telecommunications service providers to restrict access to a communication platform or search engine.

Art. 33 Procedure for restricting access to a service

¹ If OFCOM intends to order a restriction of access to a communication platform or search engine, it shall notify the provider and set a period of 30 days for the provider to respond to this measure and supply evidence that the violation has been remedied.

² If the communication platform or search engine provider fails to supply evidence within the 30-day period, OFCOM may impose the measure for a maximum duration of 30 days.

³ If the violation continues or recurs after the measure has been lifted, OFCOM may order the measure to be renewed.

⁴ OFCOM shall order the measure to be lifted without delay once the communication platform or search engine provider has remedied the violation of the law.

Art. 34 Administrative sanctions

¹ OFCOM may order a communication platform or search engine provider to pay the sum of up to 6 per cent of its average annual worldwide turnover in the last three financial years if the provider:

- a. violates a legally binding decision by OFCOM;
- b. violates the obligation to establish a notice procedure (Art. 4) or a procedure to process notices (Art. 5);
- c. violates the obligation to establish an internal appeals procedure (Art. 7);
- d. systematically refuses to participate in out-of-court dispute settlement (Art. 8);
- e. violates the provisions on transparent labelling of advertisements (Art. 15) or the requirement to establish an advertising repository (Art. 16);
- f. violates the obligation to offer a function through which users can state that they have provided content for commercial purposes (Art. 17);
- g. violates the obligations regarding recommender systems (Art. 18).

² OFCOM may order a communication platform or search engine provider to pay an amount of up to 1 per cent of its average annual worldwide turnover in the last three financial years if the provider:

- a. violates the obligations for transparency in its general terms and conditions (Art. 13);
- b. violates due diligence obligations (Art. 14);
- c. violates the provisions on the transparency reports (Art. 19) and the reports on the results of the risk assessment (Art. 20);
- d. fails to designate a point of contact, keep the information on this point of contact up to date or make the information easily accessible (Arts 21 and 22);
- e. fails to designate a legal representative, keep the information on this representative up to date or make the information easily accessible (Art. 23);
- f. violates the provisions on independent evaluation (Arts 24 and 25);
- g. fails to or refuses to grant research bodies and civil society organisations access to data without justification (Art. 26);
- h. violates the obligation to provide information (Art. 28 para. 1 and Art. 29).

³ OFCOM may order a legal entity to pay an amount of up to 10 per cent of its average annual domestic turnover in the last three financial years or order a natural person to pay an amount of up to CHF 100,000 if the entity or person violates the obligation to provide information (Art. 28 para. 2).

⁴ When determining the sanction, OFCOM shall in particular take account of the severity of the violation, any previous violations and the financial circumstances of the sanctioned legal entity or natural person.

⁵ In the event of competing sanctions under paragraphs 1 and 2, the entire sanction may not exceed 6 per cent of the average annual worldwide turnover in the last three financial years.

Art. 35 Statute of limitations

¹ The power to impose sanctions shall expire after seven years for violations under Article 34 paragraph 1 and after four years for all other violations.

² The limitation period shall commence at the time the violation is committed or, in the case of continuing or recurring violations, at the time the violation ceases.

Chapter 5 Implementation

Art. 36 Basic principle

The Federal Council shall issue the implementing provisions and take the required measures.

Art. 37 Informing the general public

¹ OFCOM shall inform the general public of its activities.

² It may publish its decisions and make them publicly accessible online.

³ No professional, trade or industrial secrets shall be disclosed.

Art. 38 Processing of legal entities' data and personal data

¹ OFCOM may process legal entities' personal data, including sensitive data as defined in the Government and Administration Organisation Act of 21 March 1997⁶ (GAOA), in order to carry out the following tasks:

- a. making communication platform or search engine providers subject to this Act;
- b. reviewing transparency reports, reports on the results of the risk assessment, and evaluation reports;
- c. supervision;
- d. evaluation of this Act.

² It may process personal data in order to carry out the following tasks:

⁶ SR 172.010

- a. making communication platform or search engine providers subject to this Act;
- b. supervision;
- c. evaluation of this Act.

³ If OFCOM requests information in accordance with Article 28, it may process sensitive personal data as defined in Article 5 letter c numbers 1, 2 and 5 FADP in order to carry out its supervisory tasks.

Art. 39 International cooperation and agreements

¹ The Federal Council may enter into international agreements that fall within the scope of this Act.

² For international agreements of a technical or administrative nature, it may delegate this power to OFCOM.

Chapter 6 Final Provisions

Art. 40 Evaluation

¹ The Federal Council shall review the utility and effectiveness of this Act.

² It shall report to the Federal Assembly no later than five years after this Act comes into force.

Art. 41 Referendum

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

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On behalf of the Swiss Federal Council

President of the Swiss Confederation: Karin
Keller-Sutter

The Federal Chancellor: Viktor Rossi