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## **Ordinance on Internet Domains (OID)**

of 5 November 2014 (Status as of 1 January 2021)

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*The Swiss Federal Council,*

based on Articles 13a paragraph 3, 28 paragraphs 2, 3, 4 und 6, 28e, 48a paragraph 2, 59 paragraph 3, 62 and 64 paragraph 2, of the Telecommunications Act of 30 April 1997<sup>1</sup> (TCA),<sup>2</sup>

*ordains:*

### **Chapter 1 General Provisions**

#### **Art. 1 Aim**

<sup>1</sup> The aim of this Ordinance is to ensure that private individuals, businesses and public bodies in Switzerland are offered a sufficient, reasonably priced, high quality range of internet domain names that fulfils their requirements.

<sup>2</sup> It must in particular:

- a. ensure the efficient, transparent and judicious use of the top-level domains that Switzerland is responsible for managing;
- b. preserve the security and availability of the infrastructure and the services necessary for the operation of the domain name system (DNS);
- c. ensure that Swiss law and the interests of Switzerland are respected during the management and use of the top-level domains that have an effect in Switzerland.

#### **Art. 2 Scope**

<sup>1</sup> This Ordinance governs:

- a. the country code Top-Level Domain [ccTLD]) «.ch» and its transpositions in other alphabets or graphic systems;
- b. the generic Top-Level Domain [gTLD]) «.swiss»;

AS 2016 179

<sup>1</sup> SR 784.10

<sup>2</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

- c. the generic Top-Level Domains the management of which has been entrusted to Swiss public bodies other than the Confederation.

<sup>2</sup> It applies to the situations which have an effect on these domains, even if they occur abroad.

### **Art. 3** Definitions

The terms and abbreviations used in this Ordinance are explained in the Annex.

### **Art. 4** General tasks

<sup>1</sup> Unless this Ordinance provides otherwise, the Federal Office of Communications (OFCOM) exercises all the powers, functions or tasks which are related to the top-level domains managed by the Confederation.

<sup>2</sup> It ensures that Switzerland's sovereignty and of the interests are safeguarded in the DNS and in the management and use of top-level domains and of domain names subordinate to them.

<sup>3</sup> It may take any measures in order to contribute to the security and availability of the DNS.

### **Art. 5** International relations

<sup>1</sup> OFCOM safeguards the interests of Switzerland in the international forums and organisations which deal with questions associated with domain names or other internet addressing resources.

<sup>2</sup> It may invite delegates (Art. 32 para. 1) and other persons entrusted with all or some of the functions or tasks which are associated with a top-level domain managed by the Confederation or other Swiss public bodies to take part in the work of the international forums and organisations, where they shall safeguard the interests of Switzerland. It may give them instructions.

### **Art. 6** Provision of information by OFCOM

OFCOM shall inform interested parties about the DNS and of the evolution of the international regulations and of the global domain name market.

## **Chapter 2**

### **General Provisions for the Domains managed by the Confederation**

#### **Section 1 Object and Organisation**

### **Art. 7** Object

The provisions of this chapter govern the top-level domains managed by the Confederation, as well as the management and the allocation of second-level domain names which are subordinate to them.

**Art. 8** Organisation

<sup>1</sup> Domains are managed by the registry and by registrars.

<sup>2</sup> OFCOM acts as the registry or delegates this task to a third party.

<sup>3</sup> It may act as a registrar if no satisfactory registration services are offered on the market.

**Section 2** Registry**Art. 9** General

<sup>1</sup> The registry manages the domain in a rational and judicious manner. It acts in a transparent and non-discriminatory manner.

<sup>2</sup> It has personnel who have the professional qualifications and knowledge necessary to fulfil its various tasks. It shall appoint a technical manager.

<sup>3</sup> OFCOM may issue regulations on the quality and security of the registry services and the methods of monitoring the security and resilience of the infrastructures.

**Art. 10** Tasks

<sup>1</sup> The registry has the following tasks:

- a. to provide the services, operations and functionalities of the DNS required in accordance with the rules which apply at an international level, in particular:
  1. keeping a log of activities,
  2. administering and updating the databases, including all information relating to the domain in question which is necessary for carrying out its tasks,
  3. managing the primary and secondary name servers while ensuring the distribution of the zone file to these servers,
  4. allocating domain names to IP addresses,
  5. installing, managing and updating a RDDS database (WHOIS)<sup>3</sup>,
  - 6.<sup>4</sup> granting access to the information contained in the zone file for the purposes of combating cybercrime or for scientific or social research, or for other purposes that are in the public interest;
- b. providing the registrars with a system for the submission and administration of applications for the registration of domain names (registration system) and specifying the procedures and technical and organisational conditions relating to the registration and management of domain names by the registrars;
- c. assigning and revoking rights of use of domain names;

<sup>3</sup> Term in accordance with No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251). This modification has been made throughout the text.

<sup>4</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

- d. providing a technical and administrative procedure allowing an easy transfer between registrars of the management of domain names, when this is required by their holders;
- e. establishing the dispute resolution services (Art. 14);
- f. ensuring the acquisition, installation, operation and updating of the necessary technical infrastructure;
- g. taking appropriate measures to ensure the reliability, resilience, accessibility, availability, security and operation of the infrastructure and the necessary services;
- h. advising the registrars concerned immediately of any interruption in the operation of the DNS, its infrastructure or its registration services;
- i. combating cybercrime in accordance with the provisions of this Ordinance;
- j.<sup>5</sup> providing a specific and easily accessible website featuring all useful information on the activities of the registry;
- k.<sup>6</sup> ...

<sup>2</sup> The registry does not monitor the activities of registrars and holders in a general and continuous manner. Subject to Article 51 letter b, it is not required to actively investigate facts or circumstances suggesting that illegal activities have been carried out using domain names.

#### **Art. 11** Log of activities

<sup>1</sup> The registry shall enter in a log the activities in connection with the registration and allocation of domain names, changes thereto, transfers thereto, decommissioning and revocations thereof.

<sup>2</sup> It shall archive the data entered and the corresponding supporting documentation for ten years starting from the revocation of a domain name.

<sup>3</sup> Any person who credibly claims to have an overriding legitimate interest has the right to consult the file in the activities log relating to a specific domain name. The registry lays down the technical and administrative methods of consultation. It may request a fee for allowing consultation.<sup>7</sup>

#### **Art. 12** Backup of the registration and management system

<sup>1</sup> When the registry function is delegated, the registry may be obliged by OFCOM to conclude with an independent nominee a contract under private law which relates to the backing up for the benefit of OFCOM of the system of registration and management of a top-level domain including all the data and information relating to the holders and to the technical characteristics of allocated domain names in particular.

<sup>5</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>6</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

<sup>7</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>2</sup> OFCOM may give instructions to the nominee and use or allow the use of the system, the data and the information backed up only in the following circumstances:

- a. the registry is subject to bankruptcy, liquidation or debt-restructuring proceedings;
- b. the registry ceases its activity but does not transmit to the new registry or OFCOM the data or information necessary to manage the domain;
- c. the registry is no longer able to perform its function or one of its tasks;
- d. extraordinary circumstances, such as a natural disaster, so require.

**Art. 13** Personal data

<sup>1</sup> The registry may process personal data concerning registrars, applicants and holders of domain names, the dispute resolution service and their experts or any other person involved in the management of the domain concerned to the extent that and for as long as is necessary:

- a. to manage the domain concerned;
- b. to accomplish the registry function and fulfil the obligations which derive for it from this Ordinance, its implementing provisions or its delegation contract;
- c. for the stability of the DNS;
- d. to obtain payment of the amounts due for registry services.

<sup>2</sup> Subject to Article 11 paragraph 2, the registry may process personal data for a maximum of 10 years.

**Art. 14** Dispute resolution services

<sup>1</sup> The registry shall establish the required dispute resolution services. It shall regulate the organisation of and the procedure for these services while respecting the following rules and principles:

- a. the services provide extrajudicial dispute resolution processes conducted by neutral and independent experts;
- b. the services are responsible for ruling on disputes between holders of domain names and holders of trademark rights;
- c. the decisions of the experts concerning domain names have mandatory force for the registry concerned, unless a civil action is raised within the deadline allowed by the rules of procedure;
- d. the decisions of the experts relate to the legitimacy of the allocation of a domain name; they may not award damages or pronounce on the validity of a claim under trademark law;
- e. the rules governing the resolution of disputes must be based on accepted best practice;