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Ordinance on Telecommunications Installations (FAV)

of 25 November 2015 (Status as of 1 January 2022)

The Swiss Federal Council,

on the basis of Articles 21a paragraph 2, 22 paragraph 5, 31 paragraph 1, 32, 32a, 33 paragraph 2, 34 paragraph 1^{ter}, 59 paragraph 3, 62 and 64 paragraph 2 of the Telecommunications Act of 30 April 1997¹ (TCA), and in implementation of the Federal Act of 6 October 1995² on Technical Barriers to Trade (TBTA),³

ordains:

Chapter 1 General Provisions

Art. 1 Subject matter

This Ordinance regulates:

- a. the offering, making available on the market, putting into service, installation and operation of telecommunications installations as defined in Article 3 letter d TCA;
- b. the recognition of testing laboratories and conformity assessment bodies;
- c. the inspection of telecommunications installations.

Art. 2 Definitions

¹ In this Ordinance:

- a. *radio equipment* means an electrical or electronic product that intentionally sends or receives information in the form of radio waves, or an electrical or electronic product that requires an accessory, such as an antenna, so as to be able to intentionally send or receive information in the form of radio waves;

AS 2016 179

¹ SR 784.10

² SR 946.51

³ Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6213).

- b. *line-connected equipment* means any electrical or electronic products that are intended to transmit information by wire or that are used for this purpose;
- c. *telecommunications terminal equipment* means any equipment that is intended to be connected directly or indirectly by any means to interfaces of telecommunications networks used wholly or in part to provide telecommunications services (Art. 3 let. b TCA);
- d. *interface*:
 - 1. means a termination point of a telecommunications network used wholly or partly for the provision of telecommunications services, i.e. a physical connection point by which users obtain access to such a network (telecommunications network interface used wholly or partly for the provision of telecommunications services), as well as its technical specifications, or
 - 2. an interface specifying the radio path between radiocommunications equipment (air interface), as well as its technical specifications;
- e. *offering* means any conduct aimed at making telecommunications installations available on the market whether by exhibition on premises or at events, display in advertising brochures, catalogues, electronic media or in any other way;
- f. *making available on the market* means any supply of telecommunications installations for distribution, consumption or use on the Swiss market in return for payment or free of charge;
- g. *placing on the market* means the first time that radio equipment is made available on the Swiss market;
- h. *putting into service* means the initial installation and operation of a telecommunications installation, irrespective of whether the transmission or reception of information is performed successfully;
- i. *installation* means making telecommunications installations ready for operation;
- j. *operation* means the use of telecommunications installations irrespective of whether the transmission or reception of information is performed successfully;
- k. *interference* means the effect on the reception of a radio system caused by undesirable energy as a result of emission, radiation or induction that is noticeable because of a deterioration in the transmission quality, distortion or loss of information that would have been available in the absence of this undesirable energy;
- l. *manufacturer* means any natural person or legal entity that manufactures a telecommunications installation or has a telecommunications installation designed or manufactured, and markets that equipment under its name or trade mark;

- m. *authorised representative* means any natural person or legal entity established in Switzerland that has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks;
- n. *importer* means any natural person or legal entity established in Switzerland that places a telecommunications installation from a third country on the Swiss market;
- o. *distributor* means any natural person or legal entity in the supply chain, other than the manufacturer or the importer, who makes a telecommunications installation available on the market;
- o^{bis}.⁴ *fulfilment-service provider* means any natural person or legal entity that, in the course of a business activity, offers any two of the following services: warehousing, packaging, addressing and shipping of products, without being the owner of such products; not included are postal services under Article 2 letter a of the Postal Services Act of 17 December 2010⁵ and any other services involving the movement of goods
- p.⁶ *economic operator*: means any manufacturer, authorised representative, importer, distributor, fulfilment service provider or any other natural person or legal entity that is subject to obligations connected with manufacturing products, making products available on the market or putting products into service;
- p^{bis}.⁷ *information society service provider* means any natural person or legal entity that offers an information society service, i.e. any service normally provided for a consideration, at a distance, electronically and at the individual request of a recipient;
- p. *economic operators* means the manufacturer, the authorised representative, the importer and the distributor;
- q. *conformity marking* means a marking by which the manufacturer indicates that the telecommunications installation is in conformity with the essential requirements set out in Swiss legislation providing for its affixing.

² The import of a telecommunications installation for the Swiss market is equivalent to placing it on the market.

³ Offering a telecommunications installation is equivalent to making it available on the market.

⁴ A component or a sub-assembly intended for integration by the user into a telecommunications installation and able to affect the conformity of the installation with the essential requirements of this Ordinance (Art. 7) is regarded as a telecommunications installation.

⁵ Telecommunications installation assembly kits are regarded as equivalent to telecommunications installations.

⁴ Inserted by No I of the O of 18 Nov. 2020, in force since 16 July 2021 (AS 2020 6213).

⁵ SR 783.0

⁶ Amended by No I of the O of 18 Nov. 2020, in force since 16 July 2021 (AS 2020 6213).

⁷ Inserted by No I of the O of 18 Nov. 2020, in force since 16 July 2021 (AS 2020 6213).

⁶ Occupying one or more frequencies to block or interfere with telecommunications or broadcasting is deemed equivalent to transmitting information.

⁷ The placing on the market of a second-hand, imported telecommunications installation is equivalent to the placing on the market of a new installation, provided no new, identical telecommunications installation is placed on the Swiss market.

⁸ An importer or a distributor is equivalent to a manufacturer if it:

- a. places a telecommunications installation on the market under its name or its own trade mark; or
- b. modifies an installation already placed on the market in such a way that compliance with this Ordinance may be affected.

⁹ The repair of a telecommunications installation is equivalent to its operation.

Art. 3 Interfaces

¹ The Federal Office of Communications (OFCOM) shall determine the technical regulations applicable to interfaces and publishes the list thereof in the Official Compilation of Federal Legislation by reference⁸.

² It shall determine the location of interfaces, taking international practice into account.

Art. 4 Technical standards

¹ OFCOM may draw up technical standards or instruct independent Swiss standards organisations to do so.

² It shall publish the technical standards referred to in Article 31 paragraph 2 letter a TCA in the Official Federal Gazette by reference⁹.

Art. 5 Classes of radio equipment

¹ Taking international practice into account, OFCOM shall determine the class of radio equipment and the equipment belonging to them; it shall draw up a list thereof¹⁰.

² A class includes categories of radio equipment considered to be similar and the radio interfaces for which this equipment is intended. Equipment may belong to more than one equipment class.

⁸ These regulations may be inspected at or obtained for a fee from the Federal Office of Communication, Zukunftstrasse 44, PO Box, 2501 Biel or at the internet address www.bakom.ch.

⁹ The standards may be inspected at or obtained for a fee from the Swiss Association for Standardization, Sulzerallee 70, 8400 Winterthur, www.snv.ch, or the Swiss Telecommunications Association, ASUT, Klösterlistutz 8, 3013 Bern.

¹⁰ This list may be inspected at or obtained for a fee from the Federal Office of Communication, Zukunftstrasse 44, PO Box, 2501 Biel or at the internet address www.bakom.ch.

Chapter 2 Making New Radio Equipment available on the Market

Section 1 Conformity

Art. 6 Requirements for the making available on the market

¹ Radio equipment may be made available on the market only if, when properly installed and maintained and used for its intended purpose, it complies with the essential requirements set out in this Ordinance.

² In derogation from paragraph 1, making radio equipment that is intended to be operated by authorities to safeguard public security available on the market is governed by Articles 26 and 27, unless other equipment that complies with the other regulations of this Ordinance and fulfils the same purpose is available on the market.

Art. 7 Essential requirements

¹ Radio equipment must be constructed so as to ensure:

- a. the protection of the health and safety of persons and domestic animals and the protection of property, including the objectives with respect to safety requirements set out in the Ordinance of 25 November 2015¹¹ on Low Voltage Electrical Equipment (LVEO), but with no voltage limit applying;
- b. an adequate level of electromagnetic compatibility as set out in the Ordinance of 25 November 2015¹² on Electromagnetic Compatibility (OEMC).

² Radio equipment shall be constructed so that it both effectively uses and supports the efficient use of radio spectrum in order to avoid harmful interference.

³ OFCOM shall indicate the additional essential requirements that apply, and the relevant radio equipment or equipment classes taking account of the corresponding delegated legislation of the European Commission. The additional requirements are as follows:

- a. the equipment must interwork with certain accessories, in particular with common chargers;
- b. the equipment must interwork via networks with other radio equipment;
- c. the equipment can be connected to interfaces of the appropriate type throughout Switzerland;
- d. the equipment must not harm the network or its functioning nor misuse network resources, thereby causing an unacceptable degradation of service;
- e. the equipment must incorporate safeguards to ensure that the personal data and privacy of the user and of the subscriber are protected;
- f. the equipment must support certain features ensuring protection from fraud;
- g. the equipment must support certain features ensuring access to emergency services;

¹¹ SR 734.26

¹² SR 734.5