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

of 5 November 2014 (Status as of 1 January 2024)

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*The Swiss Federal Council,*

based on Articles 13a paragraph 3, 28 paragraphs 2, 3, 4 and 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 shall 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 seek facts or circumstances suggesting that illegal activities have been carried out using domain names.<sup>7</sup>

#### **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>8</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 28 June 2023, in force since 1 Jan. 2024 (AS 2023 365).

<sup>8</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<sup>9</sup>, 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;

<sup>9</sup> Term in accordance with No I of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

- f. the procedure must be fair, transparent, rapid and beneficial; the experts mandated by the services may not be subject to any general or particular directive on the solution of a dispute; they may take all steps necessary for the resolution of a dispute;
- g. the dispute resolution procedure ends with the withdrawal of the application, the conclusion of an agreement between the parties, the decision of the experts or the opening of a civil action.

<sup>2</sup> The structure of the organisation, the rules governing the resolution of disputes, the rules of procedure and the appointment of the experts called upon to come to a decision require the approval of OFCOM. Beforehand, the latter shall seek the opinion of the Swiss Federal Institute of Intellectual Property and, if the case relates to the structure of the organisation or the procedural rules, the Federal Office of Justice.<sup>10</sup>

<sup>3</sup> On request, the Registry shall transmit to the acting dispute resolution service all the personal data in its possession which is necessary for the resolution of a dispute.

<sup>4</sup> It may publish or arrange to have published the decisions taken by the experts. The parties' names and other personal information may only be published if such details are essential in order to understand the decisions.<sup>11</sup>

#### **Art. 15<sup>12</sup>** Measures on suspicion of abuse: blocking

<sup>1</sup> The Registry may block a domain name technically and administratively for a maximum of five days if there is justifiable suspicion that the domain name in question is being used to:

- a. access critical data by illegal methods;
- b. distribute or use malicious software; or
- c. support the acts mentioned in letters a or b.

<sup>2</sup> It may extend the period in which the domain name is blocked for a maximum of 30 days if:

- a. there is justifiable suspicion that the holder has provided false identification information or is unlawfully using the identity of a third party; and
- b. there is an urgent need to avert imminent prejudice that cannot easily be remedied.

<sup>3</sup> A service to combat cybercrime recognised by OFCOM may extend the period in which the domain name is blocked for a maximum of 30 days if the requirements in accordance with paragraph 1 are met.

<sup>4</sup> The blocking of a domain name for longer than the maximum periods specified in this article is only permitted if ordered by OFCOM.<sup>13</sup>

<sup>10</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

<sup>11</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>12</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>13</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

**Art. 15a<sup>14</sup>** Measures on suspicion of abuse: redirecting of data traffic

<sup>1</sup> The Registry shall redirect data traffic sent to or via a domain name if the following requirements are met:

- a. the domain name concerned is blocked in accordance with Article 15;
- b. the processing of information serves only to identify and notify persons affected by acts under Article 15 paragraph 1 and to analyse the process so that techniques may be developed to recognise, stop, limit or track such acts; recorded information that is not related to these acts may not be used and must be deleted immediately;
- c. the redirecting of data traffic for analysis shall be requested by a service under Article 15 paragraph 3 for a maximum of 30 days.

<sup>2</sup> It shall redirect the data traffic to an analysis tool or to an information page containing the following:

- a. information on the relevant suspicion of abuse;
- b. the names and the contact data of the service or authority that requested the measure.

<sup>3</sup> Redirecting data traffic for longer than the maximum periods specified in this article is only permitted if ordered by OFCOM.

**Art. 15b<sup>15</sup>** Measures on suspicion of abuse: Notification and request for identification

<sup>1</sup> The Registry shall immediately notify the holder of the domain name concerned electronically about the blocking of a domain name or the redirecting of data traffic.

<sup>2</sup> It shall simultaneously ask the holder to indicate, if required, a valid correspondence address in Switzerland and to identify itself within 10 days.<sup>16</sup>

<sup>3</sup> Notification to the holder may be given at later time if this is necessary in order to protect overriding public or private interests.

**Art. 15c<sup>17</sup>** Measures on suspicion of abuse: decision and revocation

<sup>1</sup> OFCOM shall issue a decision on the blocking or redirecting of data traffic if the holder, within the 30 days following notification of the measure by the Registry:

- a. requests such a decision;
- b. identifies itself correctly; and
- c. indicates a valid correspondence address in Switzerland if it or its registered office or place of residence is located abroad.

<sup>14</sup> Inserted by No I of the O of 15 Sept. 2017 (AS 2017 5225). Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

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

<sup>16</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS 2023 365).

<sup>17</sup> Inserted by No I of the O of 15 Sept. 2017 (AS 2017 5225). Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>2</sup> If holder fails to identify itself correctly or to indicate a valid correspondence address in Switzerland within the period specified in Article 15*b* paragraph 2, the Registry shall revoke the allocated domain name.

**Art. 15<sup>d18</sup>** Measures on suspicion of abuse: unallocated domain names

The Registry may on its own initiative or must on request from a service in terms of Article 15 paragraph 3 take the following measures in respect of unallocated domain names if there is justifiable suspicion that the name could be allocated or used unlawfully or for an unlawful purpose:

- a. it shall allocate the domain name to itself or to a third party that offers to assist in combating cybercrime;
- b. it shall redirect data traffic sent to or via the domain name for analysis.

**Art. 15<sup>d<sup>bis</sup> 19</sup>** Measures on suspicion of abuse: blocking newly allocated domain names

<sup>1</sup> The Registry may block a domain name for 10 days if that name was allocated less than 90 days previously and there are reasonable grounds to believe that the holder:

- a. has provided false identification information or has unlawfully used the identity of a third party; and
- b. is using the domain name unlawfully or for an unlawful purpose.

<sup>2</sup> It shall at the same time require the holder to identify itself within 10 days.

<sup>3</sup> If the holder fails to identify itself correctly within 10 days, the Registry shall revoke the allocated domain name.

**Art. 15<sup>e20</sup>** Measures on suspicion of abuse: documentation and report

<sup>1</sup> The Registry shall document the blocking of a domain name and the redirecting of data traffic.

<sup>2</sup> It shall submit a report to BAKOM periodically or on request. The Registry may also pass on the report to services recognised in terms of Article 15 paragraph 3.

**Art. 16** Administrative assistance and co-operation

<sup>1</sup> The Registry may collaborate with any third party which provides assistance in identifying and evaluating threats, abuses and dangers which affect or might affect the management of the domain for which it is responsible, the infrastructure dedicated to this management or the DNS. It shall ensure that the third parties concerned can, on a voluntary basis, exchange with it in a secure manner personal information and data on these threats, abuses or dangers. It may disclose such personal information and

<sup>18</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>19</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>20</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).



personal data to them, if necessary without the knowledge of the persons concerned. This disclosure may take place in the retrieval procedure.<sup>21</sup>

<sup>2</sup> It shall report to the specialist federal services incidents concerning security of information that affect the domain for which it or the DNS is responsible. It may process personal data in connection with these incidents and communicate it to the specialist services, if necessary without the knowledge of the persons concerned. This disclosure may take place in the retrieval procedure or by means of the block transmission of data.<sup>22</sup>

<sup>3</sup> At the request of a Swiss authority intervening within the scope of its responsibilities, the Registry shall request the holder of a domain name without a valid Swiss correspondence address to indicate such an address and to disclose its identity within 30 days. The Registry shall revoke the domain name if the holder does not comply within the time limit; it shall notify the requesting Swiss authority of the revocation.<sup>23</sup>

<sup>4</sup> Otherwise, Article 13b TCA applies by analogy to the administrative assistance guaranteed by the Registry.

### Section 3 Registrars

#### Art. 17 Registrar contract

<sup>1</sup> A registrar may offer registration services only if it:

- a. can provide evidence that it has concluded a registration contract with ICANN when the rules which apply at international level so require for the domain concerned; and if it
- b. has concluded with the Registry a contract relating to the registration of domain names (registrar contract).

<sup>2</sup> The Registry must conclude a registrar contract when the applicant meets the following conditions:

- a. it undertakes to comply with Swiss law, in particular this Ordinance and its implementing provisions as well as its registrar contract;
- b. it has a valid correspondence address in Switzerland;
- c. it masters the hardware and software as well as the technical rules making it possible to carry out registrations and other administrative operations with the Registry;
- d. it has put in place a procedure for verifying the identification data provided by applicants for domain names;

<sup>21</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>22</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>23</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

- e. it has the human and technical resources necessary to ensure the maintenance and updating of the administrative and technical data provided by applicants for or holders of domain names;
- f.<sup>24</sup> it has the information technology hardware and software necessary to ensure the security of the personal data provided by applicants for domain names and archives the latter in conformity with the provisions of the Data Protection Act of 19 June 1992<sup>25</sup>;
- g. it has provided the required guarantees in the event of doubtful solvency or of non-payment; the amount of these guarantees, attracting a rate of interest that applies to savings accounts, shall not exceed the anticipated risk to the Registry.

<sup>3</sup> The application to conclude a registrar contract is addressed to the Registry. It includes all the documents, data and information that make it possible to assess compliance by the applicant with the prescribed conditions.

<sup>4</sup> Any change in the facts on which the registrar contract is based must be communicated to the Registry.

<sup>5</sup> The registrar contract may not derogate from the rules prescribed by this Ordinance and its implementing provisions. In addition, the Registry shall comply with the principles of non-discrimination and transparency in its contractual relations with registrars.

<sup>6</sup> The registrar contract is governed by public law when the Registry function is exercised by OFCOM (contract under administrative law) and by private law when the Registry function is delegated (contract under private law).

<sup>7</sup> The Registry terminates the registrar contract without compensation when a registrar so requests, no longer meets the conditions imposed on the exercise of its function, ceases all activity or is subject to bankruptcy or liquidation proceedings. It must inform the holders of the domain names managed by the registrar concerned of the cancellation of a registrar contract in the appropriate manner.

<sup>8</sup> Article 40 paragraphs 1, 3 and 4, and Article 41 apply by analogy to the surveillance of registrars exercised by OFCOM.

## **Art. 18** Information of the public

<sup>1</sup> The Registry shall provide the public with the details of the requirements for a registrar contract and the list of registrars that have concluded a contract, with their name and corporate name, their postal address, their telephone number and their email and internet site addresses.

<sup>2</sup> It shall supply registrar contracts to third parties which request them. The clauses and annexes containing confidential commercial information are not published.

<sup>24</sup> Amended by Annex 2 No II 89 of the Data Protection Ordinance of 31 Aug. 2022, in force since 1 Sept. 2023 (AS 2022 568).

<sup>25</sup> SR 235.1

**Art. 19** Right of access to the registration system

<sup>1</sup> Registrars which have concluded a contract may access the Registry's registration system and register and administratively manage domain names in the name of and on behalf of third parties. They may allocate domain names to themselves on their own behalf for their own needs.

<sup>2</sup> They may claim their right only insofar as the access is carried out in accordance with the technical or organisational procedures and conditions specified by the Registry.

**Art. 20** Obligations of registrars

<sup>1</sup> Registrars must propose an offering consisting exclusively of the allocation of a domain name (unbundled offering).

<sup>2</sup> They must guarantee their customers at all times the opportunity to transfer the administrative management of a domain name to a new registrar. Civil claims for non-execution of the contract are reserved.

<sup>3</sup> Registrars must retain commercial correspondence, supporting documentation, titles and log files classified according to domain names for a period of 10 years from the end of registration of a domain name. They shall present them, on request, to the Registry within 3 working days at the latest.

<sup>4</sup> Registrars must:

- a. collaborate with the Registry and provide it with all necessary technical and organisational assistance and support in order to ensure the continuity and the security of the administration of the domain names;
- b. ensure that holders of the domain names for which they provide administrative management are informed of the cessation of any registrar's activities and of the steps to be taken to safeguard their claims.

**Art. 21** Duties to provide information

<sup>1</sup> Registrars shall report to the Registry any requested or registered domain names of a nature which is manifestly illegal or contrary to public order as soon as they are aware of them.

<sup>2</sup> They shall immediately report to the Registry any technical disturbance which they detect on their systems, the registration services of the Registry or the operation of the DNS.

<sup>3</sup> They shall immediately forward or arrange for the forwarding of all the information on the Registry to the holders or the applicants. Registrars shall notify their clients of any refusal to allocate domain names three days at the latest after the receiving the information from the Registry.<sup>26</sup>

<sup>26</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>4</sup> They do not monitor the activities of holders in a general and continuous manner. They are not required to actively investigate facts or circumstances suggesting that illegal activities have been carried out using domain names.<sup>27</sup>

#### **Art. 22**      Legal relations

<sup>1</sup> The legal relations of registrars with applicants and holders of domain names are governed by the provisions of private law. The rules laid down by this Ordinance and its implementing provisions are reserved.

<sup>2</sup> Subject to Article 40 paragraph 4 TCA, registrars are free to fix the price of their registration services.

<sup>3</sup> Registrars shall publish the prices and the general conditions for their services.

#### **Art. 23**      Obligation to collaborate

<sup>1</sup> Registrars shall work with the Registry in order to identify or to assess threats, abuses and dangers which affect or might affect the management of the domain and of the domain names which are subordinate to it, the management infrastructure or the DNS. They may process personal data in connection with these incidents, if necessary without the knowledge of the persons concerned.

<sup>2</sup> They shall report to the specialist federal services incidents concerning security of information which affect their management systems and infrastructures or the DNS. They may process and communicate personal data in connection with these incidents to the services concerned, if necessary without the knowledge of the persons concerned.

<sup>3</sup> ...<sup>28</sup>

<sup>4</sup> On request, the registrars shall transmit to the acting dispute resolution service all the personal data in their possession which is necessary for the resolution of a dispute.

### **Section 4**      **Allocation**

#### **Art. 24**      Application for registration

<sup>1</sup> When a registrar submits a registration application on behalf of an applicant, the Registry shall initiate a domain name allocation process.

<sup>2</sup> It shall process the registration application when the latter:

- a. has been validly submitted via the Registry's registration system;
- b. includes all the information, elements and documents necessary to authorise the allocation of a domain name, in particular:
  1. the designation desired as a domain name,

<sup>27</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

<sup>28</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS **2017** 5225).

2. up-to-date, complete and correct information on the applicant, in particular their name and postal and email addresses,
3. current, complete and correct information enabling verification of compliance with the general and particular conditions of allocation of the requested domain name.

<sup>3</sup> OFCOM shall determine the information and documents which an applicant must submit to the relevant registrar in order for the Registry to verify their identity, address and legal existence, and compliance with the conditions of allocation of a domain name, in particular:<sup>29</sup>

- a. if the applicant is an individual: a copy of a national identity document or a valid passport and a current certificate of residence;
- b. if the applicant is an association or a foundation with its headquarters in Switzerland and not entered in the commercial register: a certified copy of the articles of association or the foundation charter;
- c. if the applicant is a legal entity or a partnership with its headquarters abroad: an attested up-to-date extract from the foreign commercial register or, when the extract does not contain sufficient information or if there is no corresponding institution in the commercial register, an official document attesting that the entity exists legally in accordance with the provisions of the applicable foreign law;
- d.<sup>30</sup> the business identification number (BIN) within the meaning of the Federal Act of 18 June 2010<sup>31</sup> on the Business Identification Number for legal entities and the OASI number for individuals.

<sup>4</sup> If necessary, it shall regulate the modalities for submitting registration applications. It may demand the use of set forms for registrations and amendments.

#### **Art. 24a<sup>32</sup>** Using personal data for allocating domain names

In order to allocate and manage domain names, the Registry shall have access to personal data from the register of residents, the National Address Service and the Central Register of Insured Persons in order to verify the details provided for the applicants and the holders. The data shall be provided to Registry by means of online access.

#### **Art. 25** General conditions of allocation

<sup>1</sup> A domain name shall be allocated when:

- a.<sup>33</sup> the required designation, or the corresponding ACE string, consists of 3 to 63 authorised characters; OFCOM shall determine the authorised characters and may provide for exceptions concerning the minimum number of characters when an overriding public interest justifies this; the abbreviations consisting

<sup>29</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>30</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>31</sup> SR **431.03**

<sup>32</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>33</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

of two characters which designate the cantons and the names of political communes and places that consist of two characters are reserved in accordance with Article 26 paragraph 1 letter b and may be allocated to the public bodies concerned;

- b. the requested designation is not the subject of a reservation under this Ordinance, unless the reservation was made by the person making the application;
- c. the particular conditions of allocation for the domain concerned are met.

<sup>1bis</sup> The Registry shall allocate a domain name and prevent any configuration of the name servers associated with it in the zone file that enables the domain name to be activated if an authority intervening within the scope of its responsibilities notifies the Registry that there are reasonable grounds to believe that the applicant will use the requested domain name for an unlawful purpose or in an unlawful manner.<sup>34</sup>

<sup>1ter</sup> The Registry may allocate a domain name and prevent any configuration of the name servers associated with it in the zone file that enables the domain name to be activated if there are reasonable grounds to believe that the applicant:

- a. is providing false identification information or unlawfully using the identity of a third party; and
- b. the requested domain name will be used for an unlawful purpose or in an unlawful manner.<sup>35</sup>

<sup>1quater</sup> If the holder in the cases in paragraphs <sup>1bis</sup> and <sup>1ter</sup> fails to disclose their correct identity within 30 days, the Registry shall revoke the allocation of the domain name.<sup>36</sup>

<sup>2</sup> The Registry shall refuse to allocate a domain name when:

- a. the chosen designation is contrary to public order, morality or the law in force;
- b. technical reasons so require;
- c.<sup>37</sup> a Swiss authority intervening within its scope of its responsibilities notifies it that there is reason to believe that the applicant will use the requested domain name unlawfully or for an unlawful purpose;
- d.<sup>38</sup> an applicant whose domain name has been revoked under Article 15c paragraph 2 or Article 16 paragraph 3 requests to be allocated the same domain name again without indicating a valid correspondence address in Switzerland.

<sup>3</sup> It may refuse to allocate a domain name when the applicant is in a state of bankruptcy, liquidation or in administration proceedings.

## **Art. 26** Reserved designations

<sup>1</sup> The following designations or categories of designations are subject to reservation:<sup>39</sup>

<sup>34</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>35</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>36</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>37</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>38</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>39</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

- a. designations of federal institutions and units of the federal administration, names of federal councillors and of chancellors of the Confederation, designations of official buildings and other designations associated with the State which appear in the central list of designations deemed worthy of protection as domain names; this list is drawn up by the Federal Chancellery;
- b.<sup>40</sup> the names of the Swiss cantons, political communes and places in accordance with Article 3 of the Ordinance of 21 May 2008<sup>41</sup> on Geographical Names, and the abbreviations consisting of two characters which designate the cantons;
- c. names and abbreviations of the international organisations protected by Swiss legislation;
- d. designations which must be reserved in the generic top-level domains in accordance with the rules which apply at the international level;
- e. designations necessary for the activity of the Registry, in particular for its communication.

<sup>2</sup> Reserved designations or categories of designations may be allocated as domain names only to those persons or categories of persons for whom they are reserved, unless the persons or categories of persons have permitted allocation to third parties; the foregoing does not apply to designations allocated to third parties before the designation is reserved or before this Ordinance comes into force. In the absence of agreement, homonymous canton and political commune designations are allocated to the commune concerned.

#### **Art. 27** Allocation process

<sup>1</sup> The processing of a registration application by the Registry concludes with the allocation or the refusal of allocation of the requested domain name.

<sup>2</sup> The Registry allocates the right to use a domain name. The allocation takes effect on its confirmation in electronic form via the Registry system to the registrar operating on behalf of the applicant concerned.

<sup>3</sup> The Registry shall notify the registrar acting on behalf of the applicant concerned of the refusal to allocate a domain name via the registration system in electronic form or if necessary by other means. It shall directly notify the applicant of the refusal to allocate a domain name that must be allocated by means of a naming mandate under Article 56 using an appropriate means of communication.<sup>42</sup>

<sup>4</sup> OFCOM shall make a decision on the refusal to allocate a domain name if, within 40 days of receiving notification of a refusal under paragraph 3, the applicant:<sup>43</sup>

- a. requests such a decision; and

<sup>40</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).  
<sup>41</sup> SR **510.625**

<sup>42</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

<sup>43</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

- b. provides a valid correspondence address in Switzerland if they are registered or domiciled abroad.

## Section 5 Domain Names

### Art. 28 Holder's rights

<sup>1</sup> The holder has the right to use the domain name which has been allocated to it within the prescribed limits and for purposes provided for by this Ordinance and its implementing provisions. The right of use is governed by public law.

<sup>2</sup> It shall manage freely the domain names subordinate to the domain name allocated to it, unless this Ordinance or its implementing provisions provide otherwise.

<sup>3</sup> It may transfer to a third party a domain name which has been allocated to it when the general and particular conditions of allocation are met by submitting, via the registrar which manages it, a change of holder request.

<sup>4</sup> It may give up its domain name at any time by submitting, via the registrar which manages it, a cancellation request. Civil claims for non-fulfilment of the contract concluded with the registrar are reserved.

<sup>5</sup> The right to use a domain name automatically passes:

- a. to the undertaking originating from a merger which becomes the holder of the domain names allocated to the merged undertakings;
- b. in the event of a demerger or a transfer of assets governed by the Mergers Act of 3 October 2003<sup>44</sup>, to the undertaking which takes over which then becomes the holder of the domain names allocated to the transferring undertaking mentioned in the inventory;
- c. to the heirs of the deceased holder.

<sup>6</sup> It reverts to the bankruptcy assets of the bankrupt holder.

### Art. 29 Holder's obligations

<sup>1</sup> The holder must keep up to date and if necessary supplement or correct all the information relating to it which is necessary for the management of the domain name which it has been allocated.

<sup>2</sup> It is obliged to take part in a dispute resolution procedure initiated by the holder of a right attached to a distinctive sign.

### Art. 30 Measures<sup>45</sup>

<sup>1</sup> The Registry may, on its own initiative or at the request of the registrar concerned, revoke the allocation of a domain name:

<sup>44</sup> SR 221.301

<sup>45</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).



- a. if the holder does not comply with this Ordinance or its implementing provisions;
- b. if the general or particular conditions imposed on the allocation of a domain name are no longer being complied with;
- c. if the holder does not comply with its obligation to keep up to date, supplement or correct all the information relating to it which is necessary for the management of the domain name which it has been allocated;
- d. if a registrar so requests after terminating its contract with the holder and the latter has not transferred the management of the domain name to a new registrar within 30 days;
- e. if there are other important reasons, such as technical reasons, standards or international harmonisation measures.

<sup>2</sup> The Registry shall revoke the allocation of a domain name:

- a. if an amendment to this Ordinance or its implementing provisions so requires;
- b. if this proves necessary in order to protect the integrity or the stability of the DNS;
- c. if the holder gives up its domain name voluntarily;
- d. if the registrar operating on behalf of the holder is in a state of bankruptcy, liquidation or has had its registrar contract terminated and the holder does not transfer the management of the domain name to a new registrar within 90 days; this period runs from the time the Registry has informed the holder of the necessity of transferring management of the domain name to a new registrar; the quarantine period within the meaning of Article 31 paragraph 3 is 90 days;
- e. if experts mandated by a dispute resolution service so request, unless a civil action has been filed within the period prescribed by the procedural rules of the dispute resolution service concerned;
- f. if a court or an arbitration tribunal so orders as part of a procedure which leads to an enforcement order or ruling in Switzerland;
- g. if a Swiss administrative or prosecuting authority acting within the scope of its responsibilities so orders.

<sup>3</sup> A specialist appointed by a dispute resolution service, a court, an arbitration tribunal or a Swiss administrative or prosecution authority may within the scope of its competence issue provisional orders to the Registry; the Registry may in particular be required to:

- a. block<sup>46</sup> or modify a domain name technically by deleting the related name servers in the zone file, replacing them with new name servers or not re-entering them after their deletion;

<sup>46</sup> Term in accordance with No I of 28 June 2023, in force since 1 Jan. 2024 (AS 2023 1967).

- b. block a domain name administratively by prohibiting its allocation or re-allocation to a third party, its transfer or any change in technical or administrative parameters relating to it;
  - c. transfer a domain names to a different registrar;
  - d. correct, amend or delete any information or technical or administrative parameters relating to the management of a domain name;
  - e. correct, amend, anonymise or delete any information in the RDDS database (WHOIS);
  - f. allocate a domain name to itself or to a specific person;
  - g. redirect data traffic leading to or via a domain name for analysis;
  - h.<sup>47</sup> redirect data traffic leading to or via a domain name to an information page.<sup>48</sup>
- <sup>4</sup> The Registry may take provisional measures in accordance with paragraph 3:
- a. if this is regarded as necessary in order to protect the integrity and stability of the DNS and there is an urgent need to avert imminent prejudice that cannot easily be remedied;
  - b. for a maximum of five working days when there is justifiable suspicion that that the holder is using the domain name unlawfully or for an unlawful purpose and there is an urgent need to avert imminent prejudice that cannot easily be remedied.<sup>49</sup>

### **Art. 31** Effect of revocation

<sup>1</sup> The revocation of a domain name takes effect as of its communication by the Registry in electronic form to the registrar operating on behalf of the holder concerned via the registration system. It results in the revocation of the subordinate domain names.

<sup>2</sup> OFCOM takes a decision on the revocation of a domain name if, within the 30 days following the communication of this revocation, the holder:

- a. requests such a decision; and
- b. provides a valid correspondence address in Switzerland when it is registered or domiciled abroad.

<sup>3</sup> Subject to a longer quarantine period granted by this Ordinance, a revoked domain name may not be allocated to a new holder until 40 days after its revocation or the entry into force of a decision pursuant to paragraph 2. During this period, the revoked domain name must be reassigned from the date of revocation to its former holder if the latter so requests and the general and particular conditions of allocation are met.

<sup>47</sup> Inserted by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

<sup>48</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>49</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

### Chapter 3 Delegation of the Registry Function

#### **Art. 32<sup>50</sup>** Procedure and conditions for delegation

<sup>1</sup> If the function of the Registry is to be delegated on the basis of a tendering or invitation procedure (Art. 28a para. 2 TCA), OFCOM shall evaluate and weight the offers according to the following criteria in particular:

- a. price, suitability and quality of the services;
- b. the qualifications and characteristics demanded of the delegates;
- c. public security and combating cybercrime;
- d. the protection of critical infrastructures;
- e. participation of the community concerned in the management of the delegated resources.

<sup>2</sup> The candidates must not be permitted to see the documents submitted by their competitors nor to comment on their bids or other documents submitted.

<sup>3</sup> OFCOM decisions must not disclose the business secrets of candidates that have participated in the selection procedure.

#### **Art. 33** Form of delegation

The delegation to third parties of the Registry function of a domain managed by the Confederation or of particular tasks related to this function shall take the form of a contract under administrative law (delegation contract).

#### **Art. 34** Term of the delegation

<sup>1</sup> The delegation contract is drawn up for a specific term. Its term is fixed according to the nature and importance of the delegated tasks.

<sup>2</sup> It may be extended or renewed.

#### **Art. 35** Essential activities or services

The delegate requires OFCOM's consent in order to delegate to third parties activities or services constituting an essential element of the function.

#### **Art. 36** Separation of interest

<sup>1</sup> The delegate may not at the same time exercise the function of registrar for the domain which it manages.

<sup>2</sup> If the delegate is linked legally or economically to an entity which exercises a registrar function for the domain, an independent execution of the tasks must be guaranteed in the delegation contract by suitable measures such as the prescription of specific

<sup>50</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

forms of public communication or the obligation to guarantee the autonomy of the personnel employed.

#### **Art. 37** Delegation of tasks

<sup>1</sup> The tasks of the Registry are agreed in the form of a list of services; qualitative criteria are defined in order to verify the execution of the tasks.

<sup>2</sup> Other services of the Registry may be agreed, in particular for collaboration in appropriate international forums and organisations or within the sphere of data protection and internet security.

<sup>3</sup> The Registry must prove that it has adequate insurance to cover the risks related to its activities of domain name management and allocation.

#### **Art. 38** Price

<sup>1</sup> The price which registrars must pay annually for the registration of a domain name and for administration of the data is fixed in the delegation contract.

<sup>2</sup> When the delegation of tasks was the result of a tendering or invitation procedure under Article 32, the following rules apply:<sup>51</sup>

- a. the price shall correspond to the offer;
- b. the offer price may be adapted during the term of delegation if the delegated tasks change; the difference in price is calculated based on the changes in costs arising from the change in tasks; the delegate submits an offer to OFCOM and provides proof of the change in costs; in order to examine the offer, OFCOM may use comparison values and may ask to be provided with any useful documents.

<sup>3</sup> When the delegation of tasks takes place directly, the price covers the relevant costs of the Registry related to the catalogue of services agreed with OFCOM and additionally makes it possible to make an appropriate profit.

#### **Art. 39** Obligation to inform

<sup>1</sup> Delegates are obliged to provide OFCOM with all the information and documents necessary for the execution of this Ordinance and its implementing provisions.

<sup>2</sup> They are obliged to transmit free of charge to OFCOM the information necessary for the compilation of official statistics. Articles 97 to 103 of the Ordinance of 9 March 2007<sup>52</sup> on Telecommunications Services apply by analogy.

#### **Art. 40** Surveillance

<sup>1</sup> OFCOM shall ensure that delegates comply with this Ordinance and its implementing provisions, and with their delegation contract.

<sup>51</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>52</sup> SR 784.101.1

<sup>2</sup> Normally it verifies once every two years the manner in which delegates fulfil the delegated function or tasks. The delegates must grant access to their premises and their installations and must provide all the information required.

<sup>3</sup> If there is reason to suspect that a delegate is not complying with the obligations arising from this Ordinance, its implementing provisions or the delegation contract, OFCOM shall perform an audit. The delegate must guarantee access to its premises and its installations and must provide all the information required.

<sup>4</sup> If the audit establishes that the delegate is not fulfilling its obligations, the delegate bears the costs thereof.

#### **Art. 41** Surveillance measures

<sup>1</sup> If a delegate does not fulfil its obligations, OFCOM may:

- a. require it to remedy the shortcoming or to take appropriate measures to prevent any repetition; the delegate must inform OFCOM of the measures taken;
- b. require it to transfer the unlawfully acquired revenue to the Confederation;
- c. add conditions to the delegation contract;
- d. restrict or terminate the delegation contract with immediate effect or within a specific period.

<sup>2</sup> OFCOM may order provisional measures.

#### **Art. 42** Modification of the delegation contract

<sup>1</sup> OFCOM may modify by administrative decision certain provisions of the delegation contract before the expiry of its period of validity if the de facto or de jure conditions have changed and if modification is necessary to preserve overriding public interests.

<sup>2</sup> The delegate shall receive appropriate compensation if modification of the delegation contract causes it a financial loss relating to the delegated function or tasks. This compensation does not include the compensation for loss of profits.

#### **Art. 43** End of the delegated activity

<sup>1</sup> OFCOM shall terminate the delegation contract without compensation if a delegate no longer fulfils the conditions for exercising the delegated function or tasks, ceases all activity or is in a state of bankruptcy, liquidation or in administration proceedings.

<sup>2</sup> It may terminate the delegation contract by appropriately compensating the delegate if the de facto or de jure conditions have changed and if the termination is necessary to preserve overriding public interests. The compensation does not include compensation for loss of profits. It takes into account the amount received by the delegate under paragraph 5 letter b for the assistance provided.

<sup>3</sup> OFCOM shall take over the delegated function or task or entrust it directly to a new delegate.<sup>53</sup>

<sup>53</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

<sup>4</sup> Holders retain their rights vis-à-vis the new Registry to the domain names which have been allocated to them.

<sup>5</sup> The delegate is obliged to collaborate and to provide the new Registry with all the technical and organisational assistance necessary to ensure the continuity and security of the management of the domain concerned and of the domain names subordinate to it. It is entitled to compensation based on the utility value of its assistance. The compensation is, on request, fixed by OFCOM. The delegate must in particular make available:

- a. free of charge: the activities log and the entirety of the conserved data or information which relates to the domain concerned and to the holders of the allocated domain names or the management activities associated with these domain names and their characteristics, in particular their technical characteristics;
- b. in return for compensation for the asset value: the technical and data-processing infrastructure essential for the continuation of the function or of the delegated tasks.

<sup>6</sup> The delegate shall ensure that the persons affected are aware of the cessation of its activities and of the steps to be taken to safeguard their claims.

## Chapter 4 The “.ch” Domain

### Art. 44 Object

The provisions of this Chapter govern the management of the “.ch.” top-level domain and the management and allocation of second-level domain names which are subordinate to it.

### Art. 45 Characteristics

<sup>1</sup> The “.ch” domain has the following characteristics:

- a. it constitutes a top-level country domain managed by the Confederation;
- b. the domain names which are subordinate to it may be allocated to or used by any physical and moral person;
- c. the registrar function is exercised in free competition by all the entities which have concluded a registrar contract with the Registry.

<sup>2</sup> The Registry establishes a dispute resolution service within the meaning of Article 14.

### Art. 46<sup>54</sup> Provision of data

<sup>1</sup> The following data must appear in the RDDS database (WHOIS):

<sup>54</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

- a. the designation of the allocated domain name and corresponding ACE string;
  - b. in the case of an activated domain name: the data relating to the allocated name server;
  - c. the information according to which a domain name is or is not protected by the DNSSEC system;
  - d. the date of the first allocation of the domain name;
  - e. the name, address and contact data of the registrar acting on behalf of the holder of the domain name concerned.
- <sup>2</sup> The Registry may publish the following data in the RDDS database (WHOIS):
- a. the identification information and contact data of the holder of the domain name concerned if it is a legal entity;
  - b. the identification information and contact data of the holder of the domain name concerned if the holder has consented to publication;
  - c. information on how the holder of the domain name concerned may be contacted anonymously.
- <sup>3</sup> It shall grant any person who credibly claims to have an overriding legitimate interest access free of charge to the personal data of the holder of the domain name concerned contained in the RDDS database (WHOIS).
- <sup>4</sup> OFCOM may, taking account of the rules that apply at international level, issue regulations on the modalities and procedures for access under paragraph 3.
- <sup>5</sup> The Registry shall take suitable measures, in particular technical measures, to prevent abuse of the data made available to the public, in particular its use for the purpose of advertising or sales promotion.

**Art. 47** Particular conditions of allocation

<sup>1</sup> If a domain name is not yet allocated and the general conditions prescribed in Article 25 are met, the Registry shall allocate the name to the first applicant who applies for it.

<sup>2</sup> The Registry does not check the merits of the rights to use the alphanumeric denominations of domain names. Disputes relating to the rights attached to distinctive signs in relation to domain names are governed by civil law.

**Art. 48** Transposed “.ch” domains

<sup>1</sup> “.ch” country domains that are transposed into another alphabet or graphic system shall be managed by their own specific registry. OFCOM may entrust this management to the Registry of the “.ch” domain.

<sup>2</sup> Otherwise, the provisions of this Ordinance which govern the “.ch” domain apply by analogy to the management of a transposed “.ch” domain.

## **Chapter 5 The “.swiss” Domain**

### **Section 1 General Provisions**

#### **Art. 49 Object**

The provisions of this Chapter govern the management of the “.swiss” top-level domain and the management and allocation of second-level domain names which are subordinate to it.

#### **Art. 50 Characteristics**

The “.swiss” domain has the following characteristics:

- a. it is managed by the Confederation;
- b. the domain and the domain names which are subordinate to it are intended to serve and promote the Swiss community<sup>55</sup>, its image and its political, economic, legal or cultural interests in Switzerland and in the world;
- c. the subordinate domain names may be allocated only to entities located in Switzerland or having a particular link with Switzerland;
- d. the policy of assigning domain names must be implemented in a prudent manner protective of the interests of the Swiss community; it may restrict the categories of designations that are available for allocation or the eligibility of persons who may require such an allocation;
- e. the registrar function is exercised in free competition by all the entities which have a valid registrar contract with the Registry.

### **Section 2 Registry**

#### **Art. 51 Particular tasks**

In the exercise of its functions, the Registry has the following particular tasks:

- a. to offer a single arrangement (a single point of contact) allowing any person to bring to the attention of the Registry a domain name the allocation or use of which are likely to be illegal or contrary to public order;
- b. to monitor by random samples that the allocated domain names comply with the conditions of allocation and that their use is not manifestly illegal or contrary to public order;
- c.<sup>56</sup> to take commercial communication or sponsorship measures in order to promote the “.swiss” domain; for this purpose it may work with the authorities responsible, in particular the Swiss Federal Institute of Intellectual Property, the Swiss Federal Statistical Office and the cantonal commercial registers.

<sup>55</sup> Term in accordance with No I of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 1967).

<sup>56</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).



**Art. 52<sup>57</sup>** Provision of data

<sup>1</sup> The Registry shall publish in the RDDS database (WHOIS) the data that are required in accordance with the rules that apply at international level.

<sup>2</sup> It may publish the following data there:

- a. the name of the organisation and the UID of the holder of the domain name concerned;
- b. the identification information and contact data of the holder of the domain name concerned if it is a legal entity;
- c. the identification information and contact data of the holder of the domain name concerned if the holder has consented to publication;
- d. information on how the holder of the domain name concerned may be contacted anonymously.

<sup>3</sup> The Registry shall provide search facilities in the RDDS database (WHOIS) on the basis of criteria such as the domain name concerned, the registrar in charge of its management or the designation of the name server.

<sup>4</sup> It shall grant any person that has an overriding legitimate interest access to the personal data of the holder of the domain name concerned that are in RDDS database (WHOIS). It may request a fee for access in accordance with the rules and fees that apply at international level unless other legislation provides for access free of charge.

<sup>5</sup> The registrar shall, in accordance with the rules that apply at international level, ensure access to the personal data of the holder of the domain name concerned on whose behalf it is acting, in accordance with paragraph 4.

<sup>6</sup> The modalities and procedure for access in accordance with paragraphs 4 and 5 must comply with the rules that apply at international level. OFCOM may provide for additional modalities and procedures and determine the level of the fee for access in specific cases.

**Section 3 Allocation****Art. 53** Particular conditions of allocation

<sup>1</sup> A domain name is allocated when the following particular conditions are met, in addition to the general conditions provided for by Article 25:

- a. the applicant provides proof of a sufficient link with Switzerland; this is in particular the case when its headquarters and an actual administrative site or its residence is in Switzerland, or if the person concerned is a Swiss citizen;
- b. the applicant belongs, at the time of submission of the registration application, to a category of persons entitled to request an allocation (eligibility);

<sup>57</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

c.<sup>58</sup> ...

- d. the envisaged use complies with Swiss law; if the domain name is used to offer or advertise products or services, a headquarters and an actual administrative site or domicile in Switzerland are essential;
- e.<sup>59</sup> the requested designation may legitimately be regarded as having an objective relationship with the applicant or the envisaged use of the domain name;
- f. the requested designation does not correspond to or is not related to a designation with a generic character, subject to the provisions relating to the naming mandate (Art. 56).

<sup>1bis</sup> An objective relationship in terms of paragraph 1 letter e exists in the case of applicants who are individuals where the domain name contains at least one of the following designations in addition to a freely selectable voluntary designation:

- a. the applicant's official surname or another surname registered by the Civil Register Office;
- b. the applicant's first name;
- c. a designation in respect of which the applicant has a claim under trademark law;
- d. the applicant's alliance name, joint name in the case of a registered partnership, the name acquired on taking holy orders, or the stage name or pseudonym by which the applicant has become known.<sup>60</sup>

<sup>1ter</sup> An objective relationship in terms of paragraph 1 letter e exists in the case of applicants that are not individuals if the domain name fulfils any one of the following conditions:

- a. it contains a designation in respect of which the applicant has a claim under trademark law;
- b. it refers to a designation objectively linked to the State or to its activities which is required by the public body or the public law organisation concerned;
- c. it contains a geographical designation:
  - 1. to which the applicant has a right or in which it has a legitimate interest,
  - 2. to which it has a right or in which it has a legitimate interest in the public mind, or
  - 3. that it is authorised to use by the body or other organisation concerned;
- d. it refers to a designation in which the applicant has a legitimate interest or which is associated with this applicant in the public mind.<sup>61</sup>

<sup>2</sup> The Registry may refuse the allocation of a domain name:

<sup>58</sup> Repealed by No I of the O of 28 June 2023, with effect from 1 Jan. 2024 (AS **2023** 365).

<sup>59</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>60</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>61</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

- a.<sup>62</sup> when the chosen designation may manifestly lead to confusion with a domain name already allocated or a reserved designation in accordance with Article 26;
- b. when it is clear, on the basis of brief examination, that the chosen designation infringes third-party trademark rights; otherwise, the merits of the rights to use the alphanumeric designations of domain names is not verified; disputes relating to trademark rights in relation to domain names are governed by civil law;
- c. when the characteristics or values which underlie the domain oppose such allocation.

<sup>3</sup> In exceptional cases, the Registry may allocate domain names which do not meet the particular conditions of allocation when the interest of this allocation for the Swiss community so justifies.

#### **Art. 54<sup>63</sup>**

#### **Art. 55<sup>64</sup>**      Eligibility

The following are eligible to be allocated a domain name:

- a. public bodies or other Swiss public law organisations;
- b. entities entered in the Swiss commercial register that have their registered office and an actual administrative site in Switzerland;
- c. associations and foundations not entered in the Swiss commercial register that have their registered office and an actual administrative site in Switzerland;
- d.<sup>65</sup> individuals resident in Switzerland or who are Swiss citizens.

#### **Art. 56**      Naming mandate

<sup>1</sup> Domain names which correspond to or which are connected with designations of a generic character with a particular interest for all or part of the Swiss community must be allocated under a naming mandate. OFCOM may publish a non-exhaustive list of the designations or categories of designation concerned.<sup>66</sup>

<sup>2</sup> The Registry may allocate domain names under a naming mandate:

- a. following a call for tenders; if necessary it shall regulate the modalities of the tendering procedure; the latter must conform to the principles of objectivity, non-discrimination and transparency, while guaranteeing the confidentiality of the data provided by the candidates; or

<sup>62</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS **2020** 6251).

<sup>63</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS **2017** 5225).

<sup>64</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS **2017** 5225).

<sup>65</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>66</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

- b. on the basis of a spontaneous candidature.

<sup>3</sup> Any candidate for a domain which is to be allocated under a naming mandate must:

- a. demonstrate that it complies with the general and particular conditions imposed on the allocation of a domain name;
- b.<sup>67</sup> demonstrate that it represents all or an important part of the community concerned with the requested designation or that its candidature benefits from the support of all or an important part of this community; guarantees of compliance with the principles of competitive neutrality, non-discrimination and transparency may be substituted for representation or support of the community if the name applied for does not refer to a specific community or the name applied for is not represented by an organised or constituted community;
- c. indicate the possible related domain names in German, French, Italian or English which it wishes to integrate into the naming mandate;
- d. demonstrate that the envisaged use of the domain name and the performances or services offered in connection with this name benefit the whole of the community concerned;
- e. demonstrate the manner in which it will ensure that the requirements provided for under Title 2 of the Trademark Protection Act of 28 August 1992<sup>68</sup> are complied with by all the products offered using a domain name the designation of which refers to a product, to its characteristics or to a category of products;
- f. demonstrate the extent to which its project provides added value for the community concerned and for the Swiss community;
- g. demonstrate that it meets the conditions prescribed by OFCOM for the quality of the domain name or of the desired project;
- h. provide a draft of a naming mandate.

<sup>4</sup> The Registry shall publish the candidatures. Other applicants may submit an application for this same domain name within the 20 days following publication.

<sup>5</sup> In the event of a multiple candidature, the Registry shall allocate the domain name to the candidate whose project provides added value for the community concerned and for the Swiss community that is clearly greater than that of the other projects.

<sup>6</sup> If no project meets the requirement set out in paragraph 5 and the candidates cannot agree on a single or joint candidature, the Registry shall decide on the allocation by drawing lots or holding an auction. The proceeds from the auction are paid into federal funds.

<sup>7</sup> A domain name under a naming mandate is allocated for a specified term. It must be used.

<sup>67</sup> Amended by No I of the O of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).  
<sup>68</sup> SR 232.11

<sup>8</sup> The rules applicable to the supervision of persons that are delegated the Registry function of a domain managed by the Confederation (Art. 40 to 43) apply by analogy to naming mandates, and in particular to their revocation.

<sup>8bis</sup> A naming mandate (Art. 41) may in particular be terminated if:

- a. the holder no longer fulfils the conditions for allocation or fails to comply with the conditions; or
- b. the holder fails to pay the administrative fees due.<sup>69</sup>

<sup>9</sup> The Registry shall disclose naming mandates to third parties which request them; it may also make them available by a consultation procedure or publish them in another manner. The clauses and annexes containing confidential commercial information may not be communicated.

#### **Art. 57** Allocation process

<sup>1</sup> The Registry shall examine any application for registration of a domain name and publish them, unless the application manifestly does not meet the general and particular conditions for allocation. Other applicants may submit a registration application for this same domain name within the 20 days following publication.

<sup>2</sup> In the event of a multiple application, the Registry shall allocate the domain name concerned in the following order of priority:

- a.<sup>70</sup> in principle to the public corporation or to the public law organisation making the application when the latter is in competition with private applicants and the requested designation as such is of public interest;
  - b.<sup>71</sup> to the public corporation or public law organisation that intends to use the domain name concerned in a manner that provides added value which is manifestly greater for the Swiss community than that of other similar corporations or organisations; if no project satisfies this requirement and the corporations or organisations submitting the application cannot agree on a single or joint candidature, the registry shall not allocate the domain name;
  - c. in principle to the applicant which has a right to a trademark corresponding to the domain name concerned when it is in competition with applicants not benefiting from such a right;
  - d.<sup>72</sup> to the highest bidder in an auction when the applicants have competing rights under trademark law to the domain name concerned, unless holding an auction appears inappropriate in light of all the circumstances or the applicants concerned; the proceeds from the auction are paid into federal funds;
- d<sup>bis</sup>.<sup>73</sup> to the legal entity if it is in competition with an individual;

<sup>69</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>70</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>71</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>72</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>73</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

- e.<sup>74</sup> to the applicant which was first to submit a registration application when all the applicants intend to pursue non-profit-making objects using the domain name;
- f.<sup>75</sup> to the applicant that intends to use the domain name concerned in a manner that provides added value which is manifestly greater for the Swiss community than that of other applicants; if no project satisfies this requirement and the applicants cannot agree on a single or joint candidature, the registry decides on the allocation by drawing lots or holding an auction; the proceeds from the auction are paid into federal funds.

<sup>3</sup> Subject to the prior examination under Article 53 paragraph 2 letter b, the Registry does not verify the merits of the rights to use the alphanumeric denominations of domain names. Disputes relating to the trademark rights in relation to domain names are governed by civil law.

## Section 4 Revocation

### Art. 58

The Registry may, on its own initiative or at the request of the registrar concerned, revoke the allocation of a domain name:

- a. if it appears that a generic designation allocated as a domain name should have been allocated under a naming mandate; the beneficiary of the naming mandate shall pay the former holder compensation which includes all the costs of registration and management of the revoked domain name;
- b. if it is evident, on the basis of a brief examination, that the designation allocated as a domain name infringes a trademark right;
- c. if the domain name contains a geographical denomination which is of particular interest for all or part of the Swiss community and is required by a public body or another public law organisation; the latter pays the former holder compensation which includes all the costs of registration and management of the revoked domain name;
- d. if there is justifiable suspicion that the holder has applied for the registration for the sole purpose of harming the reputation of the holder of a legitimate interest in this name or a connected name, or that of a product or service associated with this name in the mind of the public;
- e. if there is justifiable suspicion that the holder has applied for the allocation for the purpose of profiting from the reputation of the holder of a legitimate interest in this name or in a name or product associated with this name in the mind of the public;
- f. if the characteristics or values which underlie the domain so require;

<sup>74</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>75</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

g.<sup>76</sup> if an individual who is a holder is not a Swiss citizen and moves abroad; a domain name may be revoked subject to the following requirements:

1. the holder fails to identify himself correctly within 30 days or fails to provide a valid correspondence address in Switzerland, despite being requested to do so by the Registry, OFCOM or a Swiss authority intervening within the scope of its responsibilities,
2. the holder uses the domain name to offer goods or services, or for their own personal promotion,
3. there are reasonable grounds to believe that the holder is using the domain for an unlawful purpose or in an unlawful manner in accordance with Swiss law.

## Chapter 6 Domains managed by other Swiss Public Bodies

### Art. 59

<sup>1</sup> Swiss public bodies may apply to acquire top-level generic domains of their choice from the ICANN.

<sup>2</sup> They shall comply with the following principles:

- a. they ensure that Swiss law and the interests of Switzerland are respected during the management and use of the domains and domain names which are subordinate to them;
- b. they ensure the security and availability of the infrastructure and the services necessary for the operation of the DNS;
- c. they shall take measures to prevent abuse of the data made available to the public.

<sup>3</sup> OFCOM shall monitor compliance by the public bodies concerned with the management principles prescribed in paragraph 2. If necessary, it shall stipulate the measures or requirements relating to the security and availability of the infrastructure and services necessary for the operation of the DNS and to prevent abuse of the data made available to the public.

<sup>4</sup> If a public body which has acquired a generic domain has not laid down the necessary rules, it shall manage this domain in accordance with the provisions of this Ordinance which govern the “.ch” domain.

<sup>76</sup> Inserted by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS 2023 365).

**Chapter 7 Final Provisions****Section 1 Implementation****Art. 60**

<sup>1</sup> OFCOM shall issue the necessary technical and administrative regulations.

<sup>2</sup> It is entitled to conclude international agreements relating to technical or administrative issues that fall within the scope of this Ordinance.

**Section 2****Transitional Provision to the Amendment of 28 June 2023<sup>77</sup>****Art. 61<sup>78</sup>**

The Registry shall determine the date from which individuals may apply for and be allocated domain names under “.swiss” in accordance with Article 53 paragraph 1<sup>bis</sup>. Operations must begin by 1 May 2024 at the latest.

**Art. 62–64<sup>79</sup>****Section 3 Commencement****Art. 65**

This Ordinance comes into force on 1 January 2015.

<sup>77</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>78</sup> Amended by No I of the O of 28 June 2023, in force since 1 Jan. 2024 (AS **2023** 365).

<sup>79</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS **2017** 5225).



## Terms and abbreviations

In this Ordinance:

- a. *DNS (Domain Name System)* means a system implementing a collective organisation and a structured management in a hierarchical manner of domain names and their resolution into an IP address (and vice versa);
- b. *Domain or internet domain* means a sub-set of the hierarchical structure of the DNS which is the subject of joint management of the domain names which are subordinate to it;
- c. *Domain name* means a unique communication parameter, composed of a series of alphanumeric, ideographic or other characters which make it possible to identify a domain;
- d. *ACE-String (ASCII [American Standard Codes for Information Interchanges] Compatible Encoding-String)* means a character string made up of the characters A to Z (without accents or inflected vowels) and numerical characters 0 to 9 as well as hyphens which is established by means of technical processes. A domain name is registered in the form of the ACE-String in the DNS;
- e. *Internet Protocol address or IP address* means a numerical communication parameter, defined in the IP protocol, which identifies an element of the internet network;
- f. *ICANN (Internet Corporation for Assigned Names and Numbers)* is a non-profit corporation under Californian law which has in particular the task of assigning the IP address space, managing the top-level domains of the DNS and ensuring the operation of its root servers;
- g. *ISO* is the International Organisation for Standardisation;
- h. *Top-Level Domain [TLD]* means a domain of the highest level of the DNS which defines, by means of a character string authorised by ICANN, a particular namespace;
- i. *Generic Top-Level Domain [gTLD]* means a top-level domain the designation of which identifies a community, a distinctive sign, a sector of activity or a circle of particular interests;
- j. *Country code Top-Level Domain [ccTLD]* means a top-level domain the designation of which, formed by a character string in conformity with ISO standard 3166-1 alpha-2, identifies a country or a geographical area;
- k. *RDDS database (WHOIS)* means the Registration Data Directory Service database which guarantees to any interested person access in real time to information relating to allocated domain names;

<sup>80</sup> Revised by No II of the O of 15 Sept. 2017 (AS 2017 5225) and of 18 Nov. 2020, in force since 1 Jan. 2021 (AS 2020 6251).

- l. *Registry* means an entity charged with the central organisation, administration and management of a top-level domain, and with the allocation and revocation of rights of use of the domain names which are subordinate to it;
- m. *Registrar* means an entity entitled to undertake with the Registry the technical and administrative operations permitting registration, on behalf of applicants, of the desired domain names and to ensure the administrative follow-up;
- n. *Registration* means all the technical and administrative operations carried out by a registrar with the Registry with the purpose of obtaining the allocation of a domain name for an applicant;
- o. *Allocation* means the legal act by which the Registry grants, via a registrar, the right to use a domain name to an applicant;
- p. *Holder* means any physical or moral person allocated the right to use a domain name by the Registry;
- q. *Designation with a generic character* means a designation which refers to or generally describes a category or a class of goods, services, people, groups, organisations, products, techniques, sectors or activities;
- r. *Naming mandate* means the legal act by which the Registry allocates a generic domain name or a series of related generic domain names subject to compliance with the particular modalities of use;
- s. *DNSSEC (Domain Name System Security Extensions)* means a standardised protocol of the IETF (Internet Engineering Task Force) which makes data exchange within the DNS secure;
- t. *Transfer* means the legal act by which the Registry allocates the administrative management of a domain name to a new registrar at the request of the holder;
- u. *Right attached to a distinctive sign* means a right recognised by the legal order which derives from the registration or use of a sign and which protects its holder from attacks on its interests generated by the registration or use by third parties of an identical or similar sign.