

From: [REDACTED]@bakom.admin.ch
Subject: Regarding applicability of Swiss law to DNS recursive domain name service (REF.:1000475948/Woodcock)
Date: November 3, 2020 at 11:09 AM
Cc: TP-ND@bakom.admin.ch, tp@bakom.admin.ch

Dear Mr. Woodcock

You were asking us about the applicability of Swiss Law regarding the offering of Reverse DNS services, specifically the Telecommunications ACT (TCA, SR 784.10).

We hope our email finds you well, please excuse the delay of this answer. The Reverse DNS service you describe is not a telecommunications service in accordance with the TCA. We consider the service as an information lookup service, that can be used in order to initiate a communication between 3rd parties. However there is no strict implication a user will always initiate a communication session immediately with the party identified, nor is your service transferring information between those parties in a communication session in case there is one established.

In fact the communication is to be determined between your service as an information provider and the client itself, the preparation of DNS records of third parties to inform your clients can be considered as a separate process for preparing information as requested.

While any Internet Service Provider (ISP, qualify as TSP as defined by the TCA) necessarily requires a DNS-Resolver-Service, the information gathered about clients communication behavior is part of a telecommunication service itself. Therefore the applicable law has to be obeyed, for instance obligation of confidentiality (Art.43 TCA). The ISP has to make sure that the corresponding DNS service, own made or 3rd party driven, will be implemented as part of his service offering accordingly.

For a more general guidance on the definition of telecommunication services in Switzerland please also refer to part 1 of the Guide to the registration form for the provision of telecommunication services, at:
www.bakom.admin.ch/bakom/en/homepage/telecommunication/telecommunication-services-providers/registration-as-a-tsp.html

With regards to your question concerning surveillance and legal interception we are sorry being not able to answer directly. Please refer to the appropriate office instead.

In case of any further question regarding the definition of a TSP in Switzerland you may also call me directly during Swiss std. business hours.

With kind regards.

[REDACTED]

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