

Media release

Date

## ComCom orders: Swisscom must operate zero-settlement peering with Init7

23. December 2024

**On 19 December 2024, the Swiss Telecom Regulator (ComCom) issued an order in the “Interconnect Peering” proceedings of Init7 against Swisscom, thus granting Init7’s application of 28 March 2013. Swisscom is obliged to operate interconnections with Init7 on the basis of so-called zero-settlement peering. The procedure took an unusually long time and included two market investigations by OFCOM, several expert opinions by the Competition Commission (COMCO), a statement by the price supervisor and one expert opinion each from Init7 and Swisscom.**

In 2018, ComCom ruled in favour of Swisscom but the Federal Administrative Court (FAC) overturned that in April 2020 and sent the case back to ComCom for reassessment. This decision based on Article 11 of the Telecommunications Act (TCA) marks the inaugural intervention in the matter of internet peering by a European telecom regulator.

This will cause implications in the industry at home and abroad. The proceedings revealed that Swisscom together with Deutsche Telekom had formed a cartel in order to force payments from content providers. Internet providers have a technical monopoly on access to their end customers and Swisscom acted as a kind of gatekeeper; only those who paid “enough” could send traffic (e.g. video streaming) to their end customers (see diagram, access controlled by Swisscom is marked yellow).

ComCom’s decision essentially comprises the following points:

- Due to its market dominance in the relevant market (access to its end customers), Swisscom is obliged to provide cost-oriented interconnection with Init7. The chargeable costs only include those of the router ports and the cable which are generated for interconnection. As both partners incur the same costs, each bears its own costs. There is no reciprocal billing. The cost-oriented price is therefore CHF 0.00, which is referred to as zero-settlement peering.

- The traffic ratio, i.e. the ratio between incoming and outgoing traffic, is considered irrelevant by ComCom, as the direction of data flow does not influence the costs. Until now, Swisscom has used the traffic ratio as a criterion for demanding payment, as the traffic pattern of content providers is normally highly asymmetrical.
- Traffic from content providers is almost always requested by Swisscom's end customers, for example by clicking on a link to a video. ComCom relies on the "polluter pays" principle; the costs incurred are already covered by the end customer's broadband subscription. Additional cost sharing by content providers is not permitted.
- Swisscom is obliged to carry out cooperative upgrades as soon as 50% of the nominal capacity is utilized.
- In Init7's view, the contractual relationship between Swisscom and Deutsche Telekom is still in breach of antitrust law; however, it is up to COMCO to punish this.
- Swisscom must bear the costs of the proceedings incurred to date, which amount to approximately CHF 170,000.

The ruling is not yet legally binding. Swisscom has the option of lodging an appeal with the Federal Administrative Court. However, the chances of a ruling in Swisscom's favour seem very slim, as the FAC already ruled in Init7's favour in this matter in April 2020.

For context, please refer to the blog article "To Peer or not to Peer - Cartels on the Internet" (German) <https://blog.init7.net/de/to-peer-or-not-to-peer-kartelle-im-internet/>

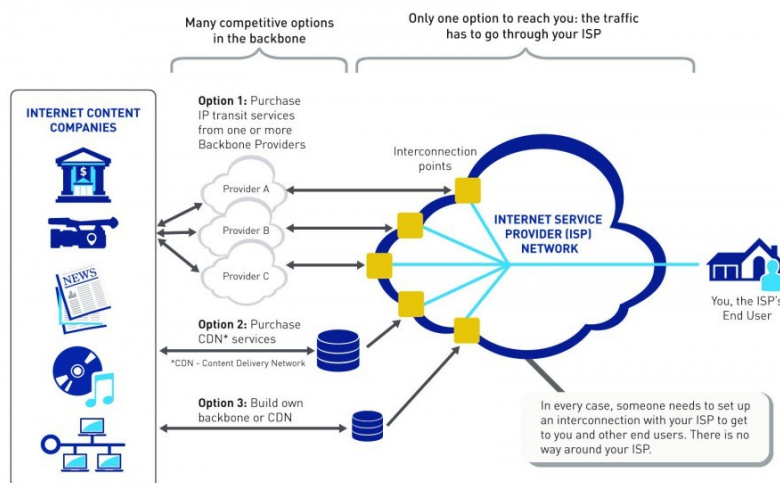
Note: This ComCom ruling is not related to the so-called fiber optic dispute. Interconnect peering concerns the Layer 3 network level, while the Layer 1 network level is relevant for the fiber optic dispute.

## Further information

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## Image



Source: Level3

<https://www.init7.net/de/internet-diagram-level3.jpg>

## Further documents

ComCom decision (90 pages, German):

<https://www.init7.net/de/vf-2024-12-19-001-entscheid-comcom-verf-init7-swisscom-interconnecting.pdf>

## About Init7

For almost 25 years, Init7 has been operating as an independent Internet provider in Winterthur in the national and international market for private and business customers. We aim to operate the infrastructure ourselves as far as possible, as this is the only way we can meet our quality standards. Our customers appreciate this - between 2018 and 2024, Init7 won the coveted Bilanz Telekom Rating in the "No. 1 internet provider residential customers" category seven times in a row. Find out more on our website: [www.init7.net](http://www.init7.net)