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## Telecommunications Newsletter Switzerland

The Swiss Telecommunication Act is currently being revised and slated for discussions in the Swiss parliament in fall 2004.

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The original draft which was prepared and sent to the various interested parties for their comments did include the adoption of the so called "ex-ante" regulation which would have replaced the current system of the telecommunication act which is based upon principle of the supremacy of freedom of contract. The regulator only becomes involved at the request of one party, if and when no agreement can be reached between the participants in the market.

The principle of the supremacy of the freedom of contract has proven inefficient when dealing with an incumbent operator. The first interconnection proceedings were brought in the beginning of 2000. To date, still no final decision has been rendered on interconnection prices.

Based upon active lobbying by Swisscom the Swiss incumbent operator in which the Federal Government still maintains a majority interest, the final report of the Federal Council abandoned the concept of "ex-ante" regulation.

The elements of the pending revision of the Telecommunication Act are the establishment of a clear legal basis for unbundling, access to the incumbent operator's infrastructure as well as consumer protection.

THOUVENIN rechtsanwälte actively supports alternative operators in their efforts to convince the legislator to adopt the "ex-ante" regulation, to establish a clear basis for access to the incumbent operator's infrastructure at cost oriented prices which would include the unbundling of the local loop, access to leased lines as well as mobile termination. In addition, efforts are made to substantially shorten the duration of interconnection proceedings.

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David Känzig