

SWISS PUBLIC CONSULTATION 2024/9

CCIA Europe Response to Public Consultation on “Draft Ordinance on Measures to Reduce Electricity Consumption in Mobile Radio Communications”

May 2024

I. Introduction

The Computer & Communications Industry Association welcomes the opportunity to participate in the Swiss consultation no. 2024/09, on a “Draft ordinance on measures to reduce electricity consumption in mobile radio communications” (the “Draft Ordinance”) and welcomes the stated objective of managing and ensuring electricity supply in situations of imminent or existing severe electricity shortage.

The Computer & Communications Industry Association (hereinafter referred to as “CCIA Europe” or “the Association”) however suggests that the Federal Council reconsiders the proposed Draft Ordinance. Indeed, the Association doubts whether the measures proposed in the Draft Ordinance would effectively solve the stated problem, notes the apparent lack of a comprehensive analysis of all the possible solutions and technical justifications for the proposed measures, and believes that the potential negative consequences of the suggested measures would outweigh the stated policy objective.

For these reasons, CCIA Europe respectfully asks the Federal Council to reconsider the current Draft Ordinance, and in particular to:

1. Conduct a more in-depth impact assessment, with a view to identifying the most targeted and proportionate measures to achieve the stated policy objective and avoid potential unintended consequences.
2. Establish a dialogue with the companies who could be potentially impacted, in order to find the best suitable way to achieve the goal of ensuring electricity supply in situations of energy shortages.

II. General remarks

1. Substantial concerns in relation to Article 1 of the Draft Ordinance

CCIA Europe is concerned with the provisions of Article 1 of the Draft Ordinance. In particular, the Association believes that the measures provided in Article 1 might not be the

most effective technical solution to address the severe energy shortages issue identified in the Draft Ordinance.

CCIA Europe in fact believes there are alternative and more targeted measures that could allow for similar or even higher energy savings with less negative impacts on Swiss internet users. For example, the following measure could be taken into consideration by the Federal Council in case of severe energy shortages:

- The Swiss authorities could nudge the population, through phone alerts, into using fixed or Wifi connections instead of mobile connections. Indeed, according to an ARCEP report, the combined use of Fixed connectivity and Wifi is 10 times more energy efficient compared to mobile, and would thus allow for the aimed goal of energy saving.¹ Ultimately, encouraging users to prioritise Wi-Fi connectivity over mobile connections could yield substantial energy savings while ensuring uninterrupted connectivity, especially in essential locations such as homes, schools, universities, and workplaces, where digital services are pivotal for both work and learning.
- The possibility of telecommunication companies prioritising their own voice traffic within their networks could be explored as an energy saving measure.

2. Procedural concerns in relation to Article 1 of the Draft Ordinance

Furthermore, CCIA Europe kindly brings to the attention of the Federal Council the perceived absence of a thorough analysis of the proposed measures. Indeed, the Association notes that any regulatory intervention, especially those resulting in domain name system blocks (“DNS blocking”), should be targeted, proportional and clear to ensure legal certainty.

Indeed, the Draft Ordinance fails to provide:

- Clear concept definitions: the Draft Ordinance fails to properly indicate the legal basis for defining key concepts such as “severe energy shortages” and “crises”, both mentioned throughout the text and in the Annex to the Draft Ordinance. Given the pivotal nature of these instances, a clearer definition, within the text of the Draft Ordinance itself, would be welcomed.
- Timeline indication: the Draft Ordinance does not mention the potential foreseen duration of the proposed measures. Also, in case these measures are implemented, will a review process be established? If so, what will be the frequency of these reviews? How will the affected service providers be informed of these measures, and how long before the measures will be implemented?
- Technical considerations:
 - The Draft Ordinance lacks an estimation of how much energy could be saved by switching off parts of the mobile frequency bands, especially compared to potential alternative measures, such as the ones listed above. In addition, it

¹ ARCEP, Achieving Digital Sustainability, page 11, Figure 3 (15 December 2020), available [here](#).

fails to provide an indication of how much capacity would remain within Swiss networks if mobile frequency bands were deactivated as proposed and thus, how much traffic would need to be blocked in order to prevent network congestion.

- The Draft Ordinance proposes implementing DNS blocking based on the traffic generated by a specific service. However, the evaluation presents no traffic analysis, no evidence on how different services are used by citizens, nor an evaluation of the potential consequences of blocking them, particularly during emergency situations.
- Moreover, the Draft Ordinance provides no indication as to how the list of affected services will be compiled, for example in relation to which metrics will be analysed.
- Finally, while the Draft Ordinance is focused only on mobile communications, DNS blocking might technically also impact fixed connections. Nonetheless, the Draft Ordinance does not indicate whether any measure is being considered to avoid this.

3. Negative consequences of Article 1 of the Draft Ordinance

CCIA Europe would like to note that the potential negative consequences of the measures proposed in the Draft Ordinance seem to outweigh its potential benefits.

First of all, CCIA Europe notes that the measures proposed in Article 1 of the Draft Ordinance appear disproportionate with respect to their end goal. Indeed, while DNS blocking may achieve the stated objective of avoiding a potential congestion of networks, it will also restrict access to the most popular internet websites for an undefined period of time, without any additional safeguards. In the Association's view, this negative outcome holds significant weight, especially given that these services are used by the population not only as a means of entertainment, but increasingly as a primary source of information & communication, including in emergency situations. Furthermore, DNS blockages will substantially impact device functioning and could limit the use of other important services, such as payments and authentication services.

In addition, CCIA Europe would like to recall the crucial nature of access to mobile communications, especially during emergencies. In this respect, CCIA Europe believes the Draft Ordinance's mandate to deactivate high and medium bands, combined with the proposed DNS-blocking, would excessively hinder citizens' access to communication applications, and thus weaken the resilience of communication networks. Nonetheless, should the Federal Council believe these measures to be the most effective, CCIA Europe suggests at least include a provision guaranteeing the continued functioning of emergency communications, also in cases of severe energy shortages.

Finally, CCIA Europe highlights that, as mentioned in the explanatory note of the Draft Ordinance itself, measures of DNS blocking will likely result in a breach of the principle of net neutrality. While CCIA Europe recognises that the DNS blocks would be implemented in line with Swiss regulations, the Association urges the utmost caution in the application of the measures foreseen in Article 1, given the relevance of the affected principle.

III. Conclusion

CCIA Europe welcomes this consultation and the attention of the Swiss government in relation to potential energy shortages. Given the relevance and possible higher frequency of these emergency situations, as well as the above-mentioned considerations, CCIA Europe suggests the current draft to be further scrutinised by the Federal Council, and in particular respectfully asks the Federal Council to:

1. Conduct an in-depth impact assessment, aimed at identifying the most targeted and proportionate measures to achieve the stated policy objective and avoid potential unintended consequences.
2. Establish a dialogue with the companies who could be potentially impacted, in order to find the best suitable way to achieve the goal of ensuring electricity supply in situations of energy shortages.

About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

Visit ccianet.org/hub/europe/ or x.com/CCIAEurope to learn more.

For more information, please contact:

CCIA Europe's Head of Communications, Kasper Peters: kpeters@ccianet.org