

# Peering agreement update

## Court case : Init7 against Swisscom

### Agenda :

- Whoami
- Disclaimer & Summary
- Backstory
- Justice decision
- What now ?
- Thanks / Questions ?

# Whoami

## Whoami :

- Will at as2613 dot net
  - Peering geek @2613
  - Network plumber @6893
  - IXP operator @41882
  - MANRS advisor
  - Connect-WG co-chair
  - [ ... ]



# Disclaimer & Summary

## Disclaimer :

- I do not represent any of the involved parties, I'm just a messenger, don't shoot me
- The opinions expressed in this presentation are my own and not necessarily those of my employer or any other affiliation
- I'm not a lawyer nor a native german speaker, caution may be advised

## Summary :

- Apr 29th 2020 : Fredy Kuenzler mention (on Nanog) that Init7 won a court case against Swisscom on the topic of peering.

# Backstory (1)

- Init7 and Swisscom established a zero-settlement peering session in 2011
- This agreement was ended in 2012 with a new proposal of Swisscom that would implies charges if the traffic ratio exceeds 1:2
- In 2013, Init7 filled a request to the ComCom (Federal Communication Commission) to obtain a free peering settlement to Swisscom (opening of the legal part)
- The ComCom granted this for the duration of the procedure

## Backstory (2)

- At the time, Swisscom had a agreement with DTAG that states that a percentage of Swisscom's traffic must be sent to DTAG
  - Swisscom gets some part of DTAG's transit benefits when DTAG sends traffic to Swisscom
  - This could be an incentive for Swisscom to avoid free traffic exchanges (peerings ?) as a paying customer would be, in addition of not costing anything, a source of additional benefits.
  - This agreement ended in 2016
- (I'll skip most of the specific details, but the legal document is available online.)

# Justice Decision

(We are at the highest level of justice in .CH : Federal Administrative Court)

- Swisscom was in a dominant position until their agreement with DTAG ended (2016). This means that the ComCo (Competition Commission) must evaluate what price should be applied for the service for that period.
- For the period after that,(after 2016) the situation must be clarified by the lower instance tribunal.
- The legal cost put upfront by Init7 must be waived and an indemnity will be given by Swisscom.

# What now ?

TL-DR;

- More waiting

Longer version :

- We wait for ComCo's decision related to pricing (up to 2016)
- We wait for the statement of the lower tribunal (post 2016)
- Will this affect the prices Swisscom applies for a paid peering service ?
- Will this affect other ISPs, maybe other countries ?
- Hopefully more feedback, maybe at next Ripe ? ( :wink::wink: )

# Thanks & Questions

Silvan Gebhardt :

for his on-the-fly translation and SD knowledge as a service

My sources :

- Fredy Kuenzler announcement on Nanog :

<https://mailman.nanog.org/pipermail/nanog/2020-April/107484.html>

- Court's Judgment :

<https://drive.google.com/open?id=13nMQkj1abja-3cPBiqWiZaybsFIUkWa5>

-----

## Questions ?