

## Duty to publish minimum required information on Swiss websites

The following is an investigation of the extent to which anyone operating a website in Switzerland is under an obligation to publish on the website in question a so-called “*Impressum*”, giving details about the operator, the names of the members of its board and its management etc., or other minimum required information, with particular reference to the Law against Unfair Competition.

### 1. Current legal position (Status July 2004)

#### a) General details about the website operator

In Switzerland there is **no specific duty** for a website operator to publish an *Impressum* of statutorily defined minimum required information, as is the case in Germany, for instance, pursuant to the German Telecommunications Services Act (where Commercial Register number, tax number, name of the managing director, etc. must be stated).

However, website operators must pay heed to certain ground rules in respect of the information provided about them and their companies, in particular under the provisions of the **law regulating business names** and the **Law against Unfair Competition**.

Art. 47 of the Commercial Register Ordinance imposes a duty to use the company’s business name, stipulating that, in business dealings, the business name of a company as entered in the Commercial Register must be stated completely and without modification. This also applies to a company’s presence on the Internet.

Following case law under the Law against Unfair Competition it is also true to say that advertisers – and thus, generally speaking, also those offering goods or services via the Internet – must identify themselves and that anonymity is not permitted. The consequence is that, as a minimum requirement, the name and/or trade designation and the address must be given on the website in order to make identification possible. Moreover, the information about the website operator may not contain any inaccurate or misleading details about them or their trade designation nor about their business relations.

#### b) Invoicing requirements under VAT law

Insofar as those offering goods or services process their customer billing in Switzerland online, the invoice document must contain certain minimum required information under Swiss law.

Billing of this type must show, in particular, the **VAT number** of the party supplying the goods or services (the website operator) as well as the following information:

- name and address of the party delivering the goods or services,
- name and address of the recipient thereof,
- date and period of delivery of the goods or services,
- nature, subject matter and scope of the item or service supplied,
- price payable for the item or service supplied, and
- tax due on the price payable.

## 2. **Planned revision of law**

There are currently two planned amendments to legislation in Switzerland containing provisions which will require certain minimum information about an online provider of goods or services in cases where **contracts with consumers are concluded via a website**:

- **Federal law concerning information for consumers** (Consumer Information Act),
- **Federal law concerning electronic business dealings** (partial revisions of the Code of Obligations and the Law against Unfair Competition).

Both draft bills specifically provide for notification to consumers of the **identity and address details** of those offering goods or services.

However, both draft bills have yet to be debated in Parliament and may undergo substantial amendment before they are adopted.

## 3. **Further duties to inform**

Finally, it should be noted that when formulating offers for goods or services, further duties of notification may apply over and above the duty to supply details about the party making the offer (e.g. with respect to characteristic features of the goods or services, or prices).

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