



***Let's work
together***

to end P.O. box fraud

- ***against dubious business***
- ***P.O.Box owner's duties***



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What is it about

The majority of people who make use of Post Office boxes do so in all honesty. There are others however who use P.O. boxes to conceal their true identity while engaging in business practices of a doubtful nature. Not only do the latter give a bad name to the majority of P.O. box users, they also undermine the general public's trust in serious advertising based on this medium. The purpose of this pamphlet is to inform all persons in possession of a P.O. box, as well as those with whom they do business, of the rights and duties that go with this service. It is our hope that a collaborative effort on the part of those most directly concerned will prove an effective way of combatting abuses.

To what legal duties and obligations are the users of P.O. boxes subject

Persons in possession of a Post Office box must by law provide the Post Office authorities with their own name and address, as well as a correct company name and the home or business addresses of any others who make use of the P.O. box in question. Fictitious descriptions clearly fall short of this requirement.

Which sections of the law on companies and the commercial registry are applicable

All companies are obliged to use only the company name entered in the Swiss Commercial Registry, unaltered and in full, in their business dealings. Companies consisting of a single individual must without exception include the owner's family name in the company name. Abbreviated names, logos, business designations, enseignes, means company signs and similar displays may only be used when accompanied by the company name.

What is the approved definition of a foreign branch

Branches of foreign companies must exhibit the same company name as the parent company head office. In addition the company name must include information on the location of the head office, the location of the foreign branch in question, and express mention of the fact that it is a branch (e.g. Constructa AG, Berlin, Berne branch).

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What restrictions do fair trading regulations and the penal code impose on those in possession of P.O. boxes and others who make use of these

Any person who possesses or makes use of a P.O. box must avoid the use of information or displays capable of misleading the public concerning his or her essential factual or legal circumstances, company, company name, place of residence or business address, and his or her origin. This is particularly relevant in the following cases:

- the use of a company name that does not correspond to the company name entered in the commercial registry;
- alterations or omissions in the wording of the company name, such as omission of the owner's family name of a firm consisting of a single individual;
- the use of enseignes or business designations instead of the company name;
- the use of a misleading company name, for a company that is not entered in the commercial registry (e.g. Miller & Sons or Schmid + Sutter, which suggest a partnership type of organisation that requires registration);
- a misleading reference to the domicile of a foreign company that is not registered in the Swiss Commercial Registry (e.g. Registered Trust Ltd., P.O. Box, 8048 Zurich);
- failure to mention the head office of branches or indeed established businesses belonging to foreign firms; failure to include the description «branch»; or failure to mention the domicile of the Swiss branch.

What sanctions are possible in cases of violation

In cases of violation of the contractual obligations the person in possession of a Post Office box and others using it will duly be notified that their contract is being terminated, and the P.O. box will be withdrawn. Violations of Swiss fair trading regulations and company law will lead to prosecution under the civil and/or penal code. The penalties include the possibility of arrest and imprisonment, and/or fines of up to CHF 100'000. In the case of violations by others using the P.O. box, the rightful owner may be held responsible as an accomplice or an accessory.

- ▶ **Where to seek information?**
- ▶ **Adresses WEB**

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Where to seek information

Information about P.O. boxes and related questions can be found at the Post Offices.

The commercial registries of the various Swiss cantons can be accessed via the Central Business Names Index of the Federal Commercial Registry Office: www.zefix.admin.ch.

For questions of a general nature on the subject of unfair competition, the website of the State Secretariat for Economic Affairs (seco) may prove helpful: www.seco-admin.ch.

Staatssekretariat für Wirtschaft
Secrétariat d'Etat à l'économie
Segretariato di Stato dell'economia
State Secretariat for Economic Affairs



For questions concerning fairness in commercial communication, refer to the following website (French and German only): www.lauterkeit.ch.



Swiss Commission for Fairness
Fairness in commercial communication