



## Competition Commission rules on DSL pricing despite unclear legal situation – Swisscom files an appeal

**The Competition Commission (Weko) has imposed a fine of CHF 219 million on Swisscom for allegedly abusing the pricing of broadband services, although the legality of fines of this nature is unclear, and a fundamental ruling by the Federal Administrative Court on this issue is expected shortly. Swisscom has therefore deemed it necessary to contest this ruling by the Competition Commission as well.**

The Competition Commission is of the opinion that Swisscom occupies a market-dominant position in the broadband market and that until the end of 2007 the prices that it charged for broadband connectivity services (BBCS) were too high. It accuses Swisscom of having too low a margin between the price of its BBCS services and end-customer prices for DSL broadband offerings, thereby preventing competitors from operating their DSL business profitably. The allegation is that Swisscom has engaged in anti-competitive behaviour and thus in contravention of competition law. On account of these allegations, the Competition Commission has imposed a fine on Swisscom of around CHF 219 million and by so doing is complying in large measure with the proposal of its Secretariat dated 12 November 2008.

Swisscom rejects the allegations and regards the fine as unjustified:

- In Switzerland **close infrastructure competition** exists between the various cable network providers, the latest mobile networks and future fibre-optic networks. For example, more than 80% of households in Switzerland have the choice between cable Internet and ADSL. According to the OECD, this puts Switzerland in fourth position in terms of market penetration. The Federal Office of Communications (Bakom) also established that the broadband prices for medium usage requirements dropped by more than a third between 2001 and 2008. The launch of unbundling in April 2007 gave a further boost to competition.

Swisscom has shown that it can **run DSL end-customer business profitably**. There can be no question therefore of having too small a margin. Swisscom improves its BBCS offerings continuously in terms of price and bandwidth, so that also in comparison with the cable network offerings, competitive pricing is possible. And successfully too: there are around 20 competitors serving close to 400,000 broadband customers of their own via the Swisscom network.

- Swisscom contested the **authority of the Competition Commission to impose fines** in connection with proceedings on mobile termination rates. This issue is still pending with the Federal Administrative Court as the highest authority of the Competition Commission. For this reason, Swisscom had requested that the Competition Commission suspend the DSL proceedings. Swisscom is therefore very surprised that the Competition Commission chose not to await the fundamental ruling of the court and, despite the unclear legal situation, imposed another fine on Swisscom.

In light of the situation, Swisscom has been forced to file an objection with the Federal Administrative Court in this instance too. The company puts its chances in the appeal procedure as intact and based on its current assessment is not therefore setting aside any provisions.



**swisscom**

**Press Release**

Berne, 5 November 2009 / 07:30