



swisscom

Press Release

Federal Administrative Court overrules mobile termination fine against Swisscom

The Federal Administrative Court has upheld the main elements of an appeal by Swisscom over a ruling by the Competition Commission (COMCO) regarding allegedly illegal mobile termination fees and has overruled the fine of CHF 333 million. In February 2007 COMCO ruled that Swisscom was market dominant in mobile termination and had violated its position as defined under the Swiss Cartel Act.

In October 2002, the Competition Commission launched an investigation into the mobile termination fees charged by the three mobile phone operators in Switzerland. Termination fees are the fees that mobile network providers charge other providers for routing calls through their network. COMCO decided that Swisscom was market dominant and had violated its position by charging unreasonably high fees between 1 April 2004 and 31 May 2005. It therefore fined Swisscom the sum of CHF 333 million. The Federal Administrative Court's latest ruling confirms Swisscom's market dominant position, but has withdrawn the allegations of violation and overruled the fine.

Swisscom appealed to the Federal Administrative Court, arguing that it neither had a market dominant position nor acted improperly. The following are the key reasons for its appeal:

- Termination charges are negotiated with the other telecoms providers. If the other providers are not satisfied with the outcome of the negotiations, they can file a complaint with ComCom. Swisscom is therefore not at liberty to set its prices.
- Swisscom has the lowest termination fees among Swiss mobile providers and has therefore made net payments to all Switzerland's telecoms providers for years.
- Swisscom could not and cannot estimate the price level that the Competition Commission regards as reasonable. A sanction is therefore not permissible in principle.

The ruling may be referred to the Federal Court. Swisscom will review the reasons behind the ruling point by point over the coming weeks and decide on next steps. No provision has been set aside by Swisscom to cover this fine, which proved to be the right decision based on this ruling.

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