



## **Swisscom appeals Competition Commission decision**

**In its investigation of the 2008 tender for a company network for Swiss Post, the Competition Commission (COMCO) has come to the conclusion that Swisscom violated the Federal Cartel Act. According to the complaint, other providers were unable to make a competitive bid to Swiss Post due to excessively high prices for intermediate inputs. Moreover, the price of Swisscom's bid was inappropriate. Swisscom denies these allegations and will contest the ruling and fine of CHF 7.9 million before the Federal Administrative Court.**

“We believe that our conduct was correct,” says Swisscom’s CEO Urs Schaeppi. “We put a priority on compliance with the Federal Cartel Act.” When calculating offers for end customers, Swisscom also takes the costs of other providers into consideration. Some of the other providers can use their own infrastructures and also purchase services from Swisscom which are regulated by the Telecommunications Act at cost-based prices as well as commercial intermediate inputs. Swisscom is not obligated, however, to provide commercial intermediate inputs at cost-based prices.

### **Tender dates back to 2008**

Swiss Post had put out a call for tender in 2008 to set up a broadband network between its sites. After a suitability test, it requested offers from Sunrise, upc cablecom and Swisscom. It then accepted Swisscom’s bid in January 2009. Sunrise responded by filing a complaint against Swisscom with the competition authority. It claimed that the price it would have had to pay for the necessary intermediate inputs would have been higher than the offer Swisscom submitted to Swiss Post. Excessively high prices for intermediate inputs were the purported reason it was unable to make a competitive offer to Swiss Post. According to the complaint, Swisscom had used a margin squeeze and thus violated the Federal Cartel Act.

### **Swisscom denies allegations**

As early as summer 2009, Swisscom demonstrated to COMCO that Sunrise would have been in a position to submit a competitive bid if it had made prudent use of its own and intermediate inputs.



**swisscom**

**Press release**

Competitors without their own infrastructures (e.g. cable networks, optical fibres) who would have had to rely exclusively on commercial intermediate inputs for the Swiss Post order were not invited by Swiss Post to submit a tender; as a result, Swisscom was unable to obstruct competitors of this type in the tender. The allegation of misconduct to the disadvantage of Swiss Post is also incomprehensible: they struck a deal for large discounts during the negotiations. Swisscom had to give in to Swiss Post's demands in the interest of keeping them as a key customer. Since Swisscom's offer was lowest, it was in compliance with the market.

From Swisscom's perspective, these allegations of misconduct are not justified. Swisscom will therefore contest the ruling and fine before the Federal Administrative Court.

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