



St. Gallen, 14 July 2021

Press Release

regarding judgment B-8386/2015 of 24 June 2021

Swisscom: Sanction largely upheld

In 2015, the Swiss Competition Commission sanctioned Swisscom with an amount of CHF 7.9 million for abusing its dominant market position in the context of a tender of the Swiss Post. The Federal Administrative Court essentially rejects the appeal against that ruling but reduces the amount to be paid to approximately CHF 7.4 million.

In 2008, the Swiss Post issued an invitation tender for the installation and operation of a «Wide Area Network» (WAN) for its post office locations. Swisscom was awarded the contract. Sunrise claimed it was dependent on the provision of preliminaries by Swisscom in order to be able to connect post office locations. The high prices charged by Swisscom for those preliminaries made it impossible for Sunrise to submit a competitive tender.

In its judgment, the Federal Administrative Court held that Swisscom had imposed unreasonably high prices both on the Swiss Post and on Sunrise. For the post office locations which it could neither have covered with regulated products nor with its own, Sunrise was dependent on Swisscom's unreasonably expensive commercial preliminaries. Moreover, while preventing Sunrise from realising a margin, Swisscom abused its dominant market position by inflicting a margin squeeze. The sanction imposed is among other things aimed at absorbing the unlawfully realised profit of Swisscom.

In an earlier judgment (B-7633/2009 on «Swisscom's ADSL price policy»), the Federal Administrative Court had already accused Swisscom of imposing a margin squeeze.

This judgment may be appealed to the Federal Supreme Court.

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About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007.

With its staff of 353 employees (297.3 FTE) and its 73 judges (65.15 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities.

Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,200 judgments every year.