



St. Gallen, 21 May 2019

Press Release

regarding judgment B-831/2011 of 18 December 2018

Sanction on SIX Group confirmed

The Swiss Federal Administrative Court confirms the sanction of CHF 7.029 million imposed on the SIX Group by the Competition Commission.

The judgment relates to the area of card payments – so-called acceptance business of credit and debit cards. SIX offers a variety of services in this area for the processing of card transactions. Between 2005 and 2007 SIX held a dominant market position as a card acquirer.

Abuse of a dominant position

In its judgment, the Federal Administrative Court (FAC) classifies the procedure used by SIX as an abuse of a dominant market position according to Article 7 of the Cartel Act. The unlawful conduct particularly relates to refusal of business relations and the use of a tie-in transaction to the detriment of other terminal manufacturers and merchants.

New security features and currency conversion

In 2005, payment cards were equipped with new security features. This meant that merchants had to acquire new payment terminals to exclude any liability on their part in the event of misuse of payment cards. By this time, so-called dynamic currency conversion had already been introduced. This allowed cardholders to make payments abroad, not just in the local currency, but also in the currency of their home country. To facilitate dynamic currency conversion, card acquirers offered merchants special conditions within the framework of additional contractual agreements. This enabled merchants to reduce any commissions that are normally charged.

In early 2005, SIX introduced new payment card terminals to the market with both the capacity to process payment cards with the new security features and perform dynamic currency conversion. Additionally to payment transaction services, merchants were also offered currency conversion services and payment card terminals. At the same time, SIX refused to provide other terminal manufacturers with the interface information necessary to connect their terminals with dynamic currency conversion to the SIX processing platform. Until 2007, merchants were therefore confined to SIX terminals if they wished to use SIX's acceptance and currency conversion services.

Judgment of the FAC

In its more than 500-page judgment, the FAC characterises this conduct as an abuse of a dominant market position pursuant to the Cartel Act. Within this appeals procedure, the appellant's complaints required answers to some 60 legal questions, 20 of which were even of a precedential nature. The judgment therefore clarifies a large number of previously highly contentious legal issues relating to the Cartel Act, which is why it has a special significance far beyond the facts underlying the judgment.

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 355 employees (305.5 FTE) and its 76 judges (68.4 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal 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 7,500 judgments every year.