

Reporting Period : April 97 - June 97

Enforcement Policy and Legislative Developments

There were no significant developments during the reporting period.

Administrative and Judicial Decisions

Merger Control

- Construction

The FCC cleared the merger of Preiswerk Holding AG, Schmalz Holding AG and Stuag Holding AG into a new entity, Batigroup Holding AG. Preiswerk's shareholders received 61,3% of the capital stock of the new company, Stuag's 36,8% and Schmalz's 1,9%. Batigroup Holding AG will rank first in the construction sector in Switzerland, ahead of Zschokke.

- Printing and Publishing

Following an in-depth investigation the FCC cleared the purchase by Gasser AG and Publicitas Holding AG of Tschudi Druck und Verlag AG, a printing and publishing company. In the proceedings the FCC initially viewed that Tschudi Druck und Verlag was a concentrative joint venture on the ground that Publicitas, although only a 40% shareholders, would have been in a position to exert decisive influence on the target. Publicitas had granted a loan to Gasser for the acquisition and had obtained the right to appoint two out of the five board members. After negotiations, Publicitas agreed to limit itself to one board representative. As a result, it was no longer deemed an undertaking "concerned" by the concentration. The exercise of decisive influence by Publicitas would have raised concerns because Publicitas may hold a dominant position in markets related to publishing and media planning. (Tribune de Genève, June 24, 1997)

- Telecommunications

The FCC cleared the formation of DiAx AG by DiAx Holding AG (a company controlled by the major electricity companies in Switzerland) and SBC International-Switzerland L.L.C., a U.S. company. The FCC found that the transaction could not adversely affect competition because the relevant market was to a large extent still subject to Telecom PTT's regulated monopoly (a monopoly expected to end on January 1, 1998). The two other major players in the forthcoming liberalized telecommunications sector will be Newtelco AG (a company controlled by Tele Danmark A/S, British Telecommunications plc, the Swiss railways, Migros and UBS) and Cablecom AG (a company controlled by Telecom PTT, Veba and Siemens). The Swiss political authorities are expected to decide whether or not Telecom PTT must sell its minority shareholding in Cablecom Holding AG.

In another telecommunications case, the FCC imposed a fine of CHF 10,000.- on BKW Energie AG and AEK Energie AG on the ground that they had failed to notify their acquisition of a joint control over Comtop AG. This was the first time that the FCC has imposed a fine.

Anti-competitive Practices

- Car Dealers

The FCC decided that exclusive distribution agreements in the motor vehicle sector would generally be found compatible with new Swiss competition rules as long as they complied with (i) the FCC's recommendations under the old competition rules regarding this sector, or (ii) the provisions of EU Regulation N° 1475/95. (Recht und Politik des Wettbewerbs 1997/1, p. 55).

- Credit Cards

In June, Which (Switzerland) SA, a subsidiary of the French group CIPE, lodged a complaint with the FCC alleging that Europay (which distributes Eurocard) and Visa Bank Finalba had unlawfully refused to adopt a new product developed by Which that enables customers to insert credit cards into debiting machines by themselves, thereby reducing the transaction time to less than twenty seconds. (Tribune de Genève, June 20, 1997)