

Reporting Period : April 99 - June 99

ENFORCEMENT POLICY AND LEGISLATIVE DEVELOPMENTS

- **Electricity Market** The Swiss Federal Council will submit to the Parliament a new proposal for the liberalization of the electricity market over a six-year period as of the entry into force of the new Act on the Electricity Market, which is expected to take place on January 1, 2001. As of January 1, 2001, the market would be liberalized for the undertakings which use more than 20 giga Watt/hour; three years later, the threshold would be lowered to 10 giga Watt/hour; and the market would be entirely liberalized on January 1, 2007.

ADMINISTRATIVE AND JUDICIAL DECISIONS

Anti-Competitive Practices

- **Billposting** On May 25, 1999, the FCC issued a recommendation proposing that long-term leases for billposting spaces be put out to competitive tender by communes. To date, most long-term leases are negotiated through single tendering which leads to de facto monopolies. The FCC held that single tendering of long-term leases would infringe the new Federal Act on the Internal Market.

The above FCC's recommendation is not consistent with a decision rendered shortly before by the Swiss Supreme Court. Indeed, on April 24, 1999, the Swiss Supreme Court held that the monopolies created by long-term lease agreements in the billposting sector were lawful. The Swiss Supreme Court confirmed that such agreements cannot infringe the new Act on the Internal Market as this Act does not apply to the "sale" by public entities of the use of public property for commercial purposes. The FCC was not aware of the Supreme Court's decision when it issued the above-mentioned recommendation.

- **Beverages** On May 18, 1999, the FCC decided to investigate whether the recommended prices lists issued by the cantonal associations of GastroSuisse constituted unlawful agreements. The FCC found that the issuance of such lists in January 1999 apparently brought about an increase in prices of beverages in restaurants.
- **Cable Network** On June 21, 1999, the FCC issued an interim decision directing Cablecom (in which Swisscom has a 32% equity stake) to give access to its cable network to TeleClub SA. Cablecom, which is about to launch its own TV platform, had refused to allow TeleClub SA to replace analogical decoders by digital decoders. The investigation should assess whether such refusal constitutes an abuse of a dominant position.
- **Vitamins Cartel** On June 22, 1999, the FCC launched an investigation against Roche SA, BASF and Rhône Poulenc SA to assess whether the vitamins cartel still affects the Swiss market. The investigation was launched upon a notice by the U.S. authorities informing the FCC that the concerned companies had been charged in the U.S. with conspiring to fix, raise and maintain prices and allocate the sales volume of certain vitamins.