

Reporting Period : July 99 - September 99

ADMINISTRATIVE AND JUDICIAL DECISIONS

Merger Control

- **Valora AG – Melisa AG** On July 13, 1999, the FCC ruled that the merger of Valora AG and Melisa AG in the press sector would not lead to cumulative market shares and that the situation of newspapers retailers would remain unaffected by the merger.

Anti-Competitive Practices

- **Billposting** On September 3, 1999, the FCC opened a preliminary investigation to determine whether the acquisition by the French Group JC Decaux of a 24,8% stake in Affichage Holding SA, the leader in the billposting market in Switzerland, amounted to an anti-competitive practice. It is the first time that the acquisition (in itself) of a minority shareholding in a company is considered as possibly infringing the rules prohibiting anti-competitive practices.
- **Books** On September 6, 1999, the FCC prohibited the retail price maintenance system applied in the German-language book industry in Switzerland. By joining this retail price system the wholesalers and the booksellers were obliged to apply the prices fixed by the publishers. This decision of the FCC may have a significant impact on the entire market for German-language books as the German and Austrian book industries are defending a similar retail price maintenance system before the EU Commission.
- **Credit cards** On September 20, 1999, the FCC decided to open an investigation to determine whether Europay AG, Banque Finalba AG, Swisscard AECS AG, Diners Club AG and Corner Bank SA have abused their dominant position by imposing on the retailers the obligation not to charge different prices depending on whether the customers pay in cash or by credit card. This obligation prevents the retailers from shifting on the credit cards users the additional costs generated by the use of credit cards.
- **Dental supplies** On September 23, 1999, the FCC has opened an investigation into two Swiss companies active in the dental supplies market, Kaladent AG and Intensiv SA, which are allegedly abusing their dominant position in the segments of said market they are active in. Intensiv SA is accused of having refused to supply some distributors and Kaladent AG of applying an unlawful discount policy.
- **Doctors** On September 6, 1999, the FCC has decided to close its investigation against the Zurich doctors' association, after the association confirmed that it would not oppose new insurance products developed by Swica, a health insurance company.
- **Asphalt** On July 21, 1999, the FCC has opened an investigation on the price of asphalt for roads in the North-East part of Switzerland. The preliminary investigation has shown indications of price fixing agreements between various companies, as well as a geographical sharing of the market. The concerned undertakings are Siderit

Beteiligungen AG, BHZ (Baustoff Holding Zurich), BHT (Baustoff Holding Thur), Biturit AG, Badertscher AG and Frishbeton und Baustoff AG.

- **Railway station kiosks** On July 8, 1999, the FCC has closed its investigation into the exclusivity contract between the Swiss railways and Kiosk SA for the sale of newspapers and magazines in railway station kiosks. The FCC considered that there were no unlawful restraints to competition, as kiosks located outside railway stations were substitutable to kiosks located inside the stations.
- **Electricity** On September 6, 1999, the FCC has launched an investigation against BKW FMB Energie AG for refusal to transport electricity. FMB, which is in a dominant position in the supply and transport of electricity is allegedly violating the Competition Act, which forbids undertakings in a dominant position to prevent access to infrastructures essential to competitors.
- **Weather Forecasts** On September 6, 1999, the FCC ruled that the Swiss Institute for Weather Forecast has abused its dominant position, after it sold data to a private entity for a double price of that charged to a state-owned company. The Swiss Institute for Weather Forecast, a state-owned entity, collects meteorological data for Switzerland, which it then sells to public and private entities. The FCC ruled that the Swiss Institute for Weather Forecast has the obligation to market its services to public entities and private customers on the same conditions. The FCC further held that the Swiss Institute for Weather Forecast is not permitted to apply dissimilar conditions to equivalent transactions and should treat third party the same way it treats its own services. .
- **Distribution of watches** The FCC decided on August 24, 1999 to review the Agreement for the Swiss watch market (SUMRA, formerly SUMO) which contains rules on the distribution of watches in Switzerland and to which most distributors and retailers are party. This horizontal agreement contains some price indications. The investigation aims at all companies parties to the SUMRA, as well as the association of manufacturers and the association of retailers of watches.
- **Newspapers** On July 13, 1999, the FCC has opened an investigation on the price of three newspapers in the Italian-speaking part of Switzerland, namely Corriere del Ticino, Giornale del Popolo and La Regione. The FCC noted that the prices of these three newspapers were exactly the same and that recent price increases were identical, which could either result from identical costs or from an agreement between the publishers.