Reporting Period : January 97 - March 97

ENFORCEMENT POLICY AND LEGISLATIVE DEVELOPMENTS

- **Codes of Conduct**
  On February 3, the FCC decided that the entry into force of the Competition Act had removed the statutory basis for the Codes of Conduct that had been proposed by the FCC and agreed upon by certain dominant undertakings under the old competition rules Accordingly, the FCC decided not to extend the validity of the Codes of Conduct.

- **Communications of the FCC**
  Although the FCC had initially decided to wait for administrative and judicial decisions to be rendered before issuing any Communication, it is currently drafting a Communication regarding the insurance sector.

- **FCC Report**
  The FCC issued its report on competition law developments for the period from July 1996 through December 1996. The report notes that during this period one merger was notified to the FCC and thirty-one preliminary investigations were initiated, four of which were extended into regular investigations.

ADMINISTRATIVE AND JUDICIAL DECISIONS

Merger Control

- **Banking**
  The FCC cleared the proposed merger among Spar + Leihkasse, Gewerbekasse and BB Bank Belp. Because of the local effects of the merger, it was not found to be capable of creating a dominant position.

- **News**
  The FCC decided to investigate the acquisition of joint control of Tschudi Druck und Verlag AG by Gasser AG and Publicitas Holding AG, although it authorized the undertakings concerned to implement the concentration provisionally.

- **Cable Networks**
  The FCC advised Swiss political authorities to require Telecom PTT ("Telecom") to sell its 32 % shareholding in Cablecom Holding AG ("Cablecom"), which was acquired just before the entry into force of the Competition Act. According to the FCC, after the liberalization of the telecommunications sector, the cable network operators would be the principal competitors of Telecom in local telephony. In the FCC's view, Telecom's 32 % shareholding in Cablecom, which itself has a 42.3 % share of the cable network market, combined with Telecom's close commercial relationships with the other Cablecom shareholders, would give it a *de facto* monopoly after liberalization.

- **Telecommunications**
  In the telecommunications sector, the FCC cleared the purchase by Tele Danmark A/S and British Telecommunications plc of a minority shareholding (49 %) in Newtelco AG, a company set up by the Swiss railways, Migros and UBS. The FCC found that the

acquisition could not adversely affect competition because the relevant market was still largely subject to Telecom PTT's regulated monopoly (which is expected to be terminated on January 1, 1998). The FCC confirmed that the combined aggregate turnover of all the controlling undertakings was to be taken into account to determine whether the pre-merger notification thresholds were met. (The combined aggregate turnover of Tele Danmark and British Telecom was less than the Swiss-wide turnover indicated in the merger control regulation).

- **Telematics**
  The FCC cleared the acquisition of joint control of Comtop by BKW Energie AG and AEK Energie AG. Because the concentration had not been notified, however, the FCC reserved its decision on the question whether to impose criminal and administrative fines.