



## Telecommunication Newsletter Switzerland

# ComCom Lowers Interconnection Charges for the Years 2004 - 2006 by 15 - 20%

### Facts

In 2004 Colt Telecom AG and Verizon Switzerland AG requested the Federal Communication Commission ("ComCom") to determine the interconnection charges levied by Swisscom Fixnet AG ("Swisscom") for the year 2004 until the date of the rendering of the decision.

These proceedings were suspended, pending the outcome of the proceedings launched by TDC Switzerland AG and MCI Worldcom AG against Swisscom on the interconnection charges for the years 2000 - 2003. On April 21, 2006 the Federal Supreme Court upheld the ComCom decision in the proceedings for the determination of the interconnection charges for the years 2000 - 2003.

The ComCom subsequently requested Swisscom to respond to the filings and to demonstrate that the interconnection prices charged are cost-oriented. On December 15, 2006 the OFCOM, acting as instructing body, ruled that the proceedings be expanded to the year 2007 and requested Swisscom to demonstrate the cost-orientation of its charges also for the year 2007. Swisscom requested the ComCom to issue an appealable interim order regarding ComCom's competence to determine the interconnection charges for the year 2007, Swisscom argued in substance that the ComCom was not competent to determine the interconnection charges for the year 2007, since the parties had not yet negotiated for a period of three months and that for each and every year a new request for the determination of the interconnection charges must be filed. By interim order of March 29, 2007 the ComCom confirmed to be competent for the determination of the interconnection charges for the year 2007. This decision was upheld upon appeal by the Federal Administrative Court.

### Decision

In its decision rendered on December 14, 2007 the ComCom held that Swisscom Fixnet AG has invoiced excessive interconnection charges for the years 2004 - 2006 and ordered Swisscom to lower its prices for the period by 15 - 20 % for usage charges and by 5 - 15 % for non-usage charges. Swisscom will have to reimburse the parties for the excess charged with interest at the rate of 12 month CHF-LIBOR plus 1.5%.

Furthermore, the ComCom clarified that it is not competent to decide on a reimbursement of the interconnection charges for the year 2000 - 2003 as requested by one of the parties. This will be left to the ordinary courts to decide.

In its press release of December 17, 2007, the ComCom further announced that it will shortly determine also the interconnection charges for the years 2007 and 2008.

The decision of the ComCom is subject to appeal to the Swiss Federal Administrative Court. As in the past, it is expected that Swisscom will appeal the decision.

Thouvenin rechtsanwälte act as counsel of one of the parties in these proceedings against Swisscom.

December 17, 2007

David Käzig

For further information please contact:  
David Käzig ([d.kaenzig@thouvenin.com](mailto:d.kaenzig@thouvenin.com))