



Telecommunication Newsletter Switzerland

Swisscom Wins Deal from the Swiss Post. Sunrise Files a Complaint with the Competition Commission for Abuse of Market Dominance

Facts

Sunrise, the second largest provider of telecommunication services in Switzerland, has announced that it filed a complaint with the Competition Commission against Swisscom for abuse of market dominance.

This move by Sunrise came after the Swiss Post has awarded the contract for broadband services for its post offices and teller machines to Swisscom. The offer from Swisscom was with CHF 20.4 million by far the lowest. Sunrise offered the services for CHF 29.7 million. To offer the services, Sunrise was, according to the press release, required to buy roughly 80% of the services from Swisscom. Swisscom allegedly offered these services to Sunrise for CHF 25 million. Swisscom stated that it had no knowledge about the Sunrise offer and refused to give a detailed comment. Swisscom said to be convinced that their offer was legitimate and that Sunrise was treated like Swisscom's own business units.

Apparently, Swisscom has increasingly been able to secure large business deals in the past, including the one from the Swiss Post. The question may, therefore, be asked how is it possible for Swisscom to offer the services to the Swiss Post at prices, which are substantially lower than the prices offered by Swisscom to Sunrise on a wholesale basis and for only a part of the services? Sunrise seems to argue that this proves that Swisscom is abusing its market dominance in the broadband market.

Comment

Swisscom's bidding policy for large contracts has always been carefully scrutinized by its competitors. However, so far there may not have been clear evidence of a market abuse.

The difference between the prices offered by Swisscom to the Swiss Post and to Sunrise is, however, that large, that it may become difficult for Swisscom to defend its position.

The Competition Commission has already determined Swisscom to have a dominant position in the ADSL market and the secretariat of the Competition Commission has proposed a fine in the amount of CHF 237 million against Swisscom for price margin squeeze. The fine has not yet become final.

Should it become evident in the Swiss Post case that Swisscom has in fact abused its market dominance, Swisscom may come under increased pressure not only from the Competition Commission but also from the regulator and legislator.

Currently, the Swiss regulatory regime is under review. Finding a price margin squeeze may, therefore, prompt the legislator to impose stricter regulation upon Swisscom, which ultimately could lead to a network separation.

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