[CH] “Last Mile” Unbundling Delayed

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In a decree issued on 30 January 2002, the Swiss Communications Commission (ComCom) announced its decision that, since "last mile" unbundling was not required by the current version of the Fernmeldegesetz (Telecommunications Act - FMG), it should reject a corresponding application for interconnection.

In order to reach this conclusion, the Commission had to decide whether unbundling was part of the requirement for interconnection under the FMG and whether current legal provisions were sufficient to force Swisscom to unbundle its network. In a ruling of 3 October 2001 concerning leased lines, the Swiss Bundesgericht (Federal Appeal Court) unequivocally interpreted the concept of interconnection in its narrower form. In its ruling, the Court concluded that there was no adequate legal basis for leased lines to be treated as a form of interconnection; the Court also dealt in great detail with the question of unbundling, explaining that this was not governed by interconnection rules. ComCom accepted the Appeal Court's verdict and dismissed the application for unbundling.

Investigations are currently under way to discover whether unbundling of local loops can be made obligatory by means of a decree or an amendment to the law.

Further liberalisation of the telecoms market is being delayed. Consumers will not enjoy any noticeable price cuts in the foreseeable future because most telecommunications service providers in Switzerland are currently in a period of consolidation. Alternatives to Swisscom's monopoly of the local loop, such as cable, WLL or Powerline, require enormous investment and cannot be introduced quickly enough. The FMG, which entered into force in 1998, has not yet fulfilled its aim of offering the public and the industry diverse, value-for-money, high-quality telecommunications services. True competition only exists when telecommunications service providers are able to offer their services directly to the customer, without being forced to use a prescribed thirdparty service offered by a single provider. The lack of competition is leading to high prices, particularly in the wholesale (eg ADSL) and leased line markets. Retailers are suffering because of reduced profit margins and companies using leased lines are having to pay high prices. The current price structure is also hindering new, innovative technologies that use broadband transmission channels. Although the need to restructure the Swiss telecommunications market cannot be blamed solely on the failure to liberalise the "last mile", unbundling is urgently required.

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Verfügung der Eidgenössischen Kommunikationskommission vom 5. Februar 2002 in Sachen TDC Switzerland AG gegen Swisscom AG

Decree of the Swiss Communications Commission, 5 February 2002, in the case of TDC Switzerland AG v. Swisscom AG

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