[CH] End of Dispute between Cablecom and Teleclub

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The dispute between Cablecom AG and Teleclub AG (see IRIS 2002-7: 7), which has been raging for months, has been resolved, at least for the time being. As a result, Cablecom must continue to include Teleclub's digital pay-TV channels in its cable network. This follows a decision taken in March 2003 by the Swiss Rekurskommission für Wettbewerbsfragen (Appeals Commission for Competition-related Questions - Reko/Wef), in which the appeal by Cablecom AG against a temporary, "precautionary" order by the Wettbewerbskommission (Competition Commission - Weko) was finally dismissed as unfounded.

Under the precautionary order, issued by the Weko last September, Cablecom had been obliged immediately to transmit the channels of Teleclub AG via its cable network. In October 2002, the Reko/Wef had dismissed, through an interim ruling, Cablecom 's request for the suspensory effect of its appeal against the decision to be restored.

By its latest decision, the Reko/Wef has once again confirmed the legality of the measures imposed by the Weko. It agrees with the Weko's view that Cablecom was abusing its dominant market position as Switzerland's leading cable network operator by refusing to include the digital channels of Teleclub AG in its cable network and by demanding that Teleclub AG stop using its own set-top box for receipt of its channels. It also ruled that Cablecom was failing to fulfil the duties set out in its broadcasting licence. It said that the precautionary order had been urgently required and an was an appropriate means of preventing Teleclub from almost certainly being put at a huge competitive disadvantage which would have been difficult to remedy.

Entscheidung der Wettbewerbskommission vom 26. September 2002

http://www.wettbewerbskommission.ch/

Decision of the Competition Commission, 26 September 2002

Interim decision of 29 October 2002 and decision by the Appeals Commission for Competition-related Questions of 20 March 2003

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