[CH] Swisscom threatened with sanction for breaching cartel law with exclusive sports broadcasts

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Swiss telecommunications provider Swisscom is under threat of a sanction under cartel law because of its controversial handling of exclusive rights for the broadcast of certain sports events. In April 2013, the Swiss Competition Commission (Weko) had launched an investigation against Swisscom and its subsidiary Cinetrade (and pay-TV provider Teleclub). The Weko suspected Swisscom of infringing cartel law in relation to, among other things, the exclusive broadcast of certain Swiss football and ice hockey matches on pay TV. The Cinetrade group offers thousands of Teleclub live sports broadcasts each year via the Swisscom TV platform.

According to the Weko secretariat's findings, Swisscom and the content trading company Cinetrade, in which Swisscom holds a majority shareholding, occupy a dominant market position where live sports broadcasts on pay TV are concerned. In a draft decree issued in July 2015, the secretariat ruled that this dominant market position had been abused because certain live broadcasts had been offered exclusively via the Swisscom TV platform. For example, all matches in the top Swiss football and ice hockey leagues had only been available to Swisscom TV viewers.

The Weko secretariat considered the exclusion of other platform providers (such as the cable network operator Cablecom) unjustified and, in its 170-page draft decree, asked the Weko to fine Swisscom CHF 143 million for this and other infringements.

In a media release of 23 July 2015, Swisscom denied the accusation that it had abused a dominant market position. The Cinetrade group had acquired the broadcast rights from the Swiss sports federations. According to Swisscom, as in other countries, the sports federations granted the rights periodically as part of competitions in which cable network operators, for example, also took part. Since entering the TV business in 2006, Swisscom had opened up fierce competition in the Swiss television market for the first time thanks to its high levels of investment.

If the Weko follows its secretariat's recommendation, Swisscom could challenge the decree before the Bundesverwaltungsgericht (Federal Administrative Court) and, in the last instance, the Bundesgericht (Federal Supreme Court).

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Swisscom media release of 23 July 2015 on the Weko secretariat's request to the Commission (fine of CHF 143 million against Swisscom)

https://www.swisscom.ch/en/about/medien/press-releases/2015/07/20150723-MM-Swisscom-weist-Weko-Vorwuerfe-zurueck.html

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