

Swisscom faces fine by Swiss government

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Swisscom has flatly rejected accusations by the Swiss government that it has deliberately and systematically overcharged foreign competitors for using its network. Whether or not the Swiss carrier is found guilty as charged, one thing is clear: Those in the industry will be looking closely at the outcome, as Swisscom is unlikely to be the only company to be accused of such actions.

On Monday the secretariat of the Swiss government's competition commission said it would impose a \$376 million fine following its investigation into how the carrier charges its mobile termination rates. Termination rates are fees that are charged by mobile network operators to other carriers for routing them into their own networks for connections.

The government started looking into how termination rates were changed by three mobile carriers operating in Switzerland, namely Sunrise of Denmark's TDC group and France Telecom's Orange network from October 2002. While the investigation still continues, only Swisscom Mobile has been found by the committee of charging fees excessively between April 1, 2004 and May 31, 2005.

Since June 2005, however, Swisscom has slashed its termination rate by 40 percent and stated that it "rejects the allegation of misuse and views the threatened sanction as unjustified."

"Swisscom Mobile does not hold a dominant position in the Swiss mobile communications market, nor can it be accused of misuse.

Swisscom will defend its stance against the proposed ruling," the company said. The carrier is expected to appear before the commission on May 22, and it argued that it has been charging the lowest mobile termination fees of any Swiss mobile carrier and does not derive any benefits from termination fees on other carriers.

Indeed, the company said that it has actually been making net payments to both Sunrise and Orange based on lower price and higher outgoing call volumes.

Furthermore, Swisscom Mobile stated that it "could not and cannot estimate the price level that the Competition Commission regards as non-discriminatory. To date, no legally valid decision has been made regarding the market limit for termination fees, nor are there any indications of the criteria by which a non-discriminatory price is to be measured. Taking into account location-specific costs and purchasing power, Swisscom Mobile's mobile termination fees are within the European average."

A former state-owned operator that continues to dominate the domestic market, Swisscom said that if the fine must ultimately be paid in full, then it may have to set aside provisions to cover it, which in turn could adversely affect its net income for the current fiscal year.

Yet investors largely took the latest development in stride, as Swisscom shares ended the day up slightly by 0.1 percent on the New York Stock Exchange Monday to \$32.60.

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