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Media relations  
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## **Press Release**

**regarding judgment A-4741/2021 of 8 November 2021**

### **Judgment on Corporate Radio and TV Fee**

**According to the Federal Administrative Court, the degressive tariff for corporate radio and television fees is unconstitutional. However, for reasons of legal certainty, the current tariff remains in force until the next revision of the ordinance.**

To fulfil its radio and television performance mandate, the Confederation levies a licence fee per household and per business; the amount of the licence fee is set by the Federal Council. According to the Value Added Tax Act, the corporate fee depends on the global turnover declared by a business to the Federal Tax Administration. Businesses whose global turnover is less than CHF 500,000 are exempt from the corporate fee. For all other companies, after the Federal Administrative Court (FAC) had found the previous tariff unconstitutional in 2019, the Federal Council adopted a new tariff with 18 fee categories which has been in force since 1 January 2021. Moreover, the applicable law offers companies the option of forming a group and paying a single fee, provided the group consists of at least 30 companies under single management (corporate fee group). Following complaints filed by four companies, the FAC examined the corporate fee tariff and, additionally, considered the corporate fee groups contemplated in the ordinance.

#### **As a basic rule, the tariff should be designed progressively**

According to the FAC, the degressive tariff structure still infringes the principle of equality before the law and is therefore unconstitutional. On examining the 18 tariff categories, the Court determined that the relative tax burden decreases over the whole tariff up to tariff category 17. As a result, under the new tariff, smaller businesses still have to carry a significantly heavier relative tax burden than companies with high turnover.

The Federal Council has indicated that the tariff would be reviewed every two years. Accordingly, on grounds of legal certainty and proportionality, the contested decisions will not be overturned. The amounts of the 2021 corporate licence fees set by those decisions remain due and payable. However, given the existing structure of the corporate licence fee in the pertinent law, the FAC encourages the Federal Council to consider adopting a progressive or partially linear design for the corporate licence fee in the next review.

#### **Corporate fee groups are unlawful**

With regard to the corporate fee groups of at least 30 companies, the Court

concluded that such groups are unlawful and unconstitutional. On the one hand, the Court holds that the legal bases are inadequate. On the other hand, the minimum number of 30 companies is regarded as an arbitrary threshold which only benefits very few companies.

This judgment may be appealed to the Federal Supreme Court.

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### **About the Federal Administrative Court**

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 351 employees (296.1 FTE) and its 73 judges (65 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.