

Federal practice in the governance of Swiss Post, Swiss Federal Railways and Swisscom

Summary of the expert report for the Parliamentary Control of the Administration

30 August 2011

Overview

Although they are no longer part of the central federal administration, Swiss Post, Swiss Federal Railways (SBB) and Swisscom continue to provide a public service and to be of major financial importance to the Confederation.¹

The discussion about the governance of these three companies has so far been conducted on a conceptual level. There has not yet been any empirical analysis of the Confederation's practice of governance, which could provide a basis for the development of public corporate governance. Nor is much known about how the performance of these companies has developed since they ceased to be government institutions.

This is the background against which the Control Commission of the National Council commissioned this study. The study provides an economic assessment which examines two main issues:

- What assessment can be made of the actual governance practice of the Federal Council and the administration as majority shareholder of Swiss Post, Swisscom and SBB?*
- Have the goals of independence been achieved, i.e. have efficiency, performance and competitiveness increased?*

Governance practice

In the first part of the study, the report examines the Federal Council's and administration's governance practice of Swiss Post, Swisscom and SBB from an economic point of view. As commissioned, it focuses on the design and use of the governance instruments applied by the Federal Council and the administration as majority shareholders, and on the role adopted by these players. Document analyses and interviews with the majority shareholders provide the main source of information for the report.

The evaluation shows that governance practice is to a large extent in line with the recommendations made in the Federal Council's Corporate Governance Report and with the Organisation for Economic Development and Cooperation (OECD)'s Guidelines on Corporate Governance in State-Owned Enterprises in terms of

¹ These formerly government institutions are now privatised or special stock companies with special legal status, with the Swiss Confederation as majority stakeholder.

organisation and processes. However, in terms of content, there are reservations regarding the use of the instruments "strategic objectives" and "goal achievement monitoring".

The goals set by the Federal Council are not always formulated for the appropriate level, are not prioritised and a possible conflict of goals is not addressed. There is also a strong focus on task-related goals, which are not distinct from overall corporate goals. This is in accordance with the Federal Council's Corporate Governance Report, but not with the OECD Guidelines. The formulation of numerous task-related goals does not interfere formally in the executive powers of the board members, but there is interference in practical terms. The public service agreement with the SBB approved by parliament contains a level of detail beyond a mere description of how funds should be used, and thus predetermines to a large extent the steering exercised by the Federal Council in its capacity as majority shareholder.

The fact that the federal government formulates both task-related and corporate objectives for the companies reflects the intention of the Federal Council's Corporate Governance Report, but it is controversial. We can distinguish between two positions; the federal government holds the first of these:

1. In the 16th guideline of the Corporate Governance Report, the Federal Council advocates the view that the federal government as the majority shareholder should set the companies both task-related and corporate requirements. Theoretically it can be argued that integral state responsibility means that a holistic approach to governance is necessary. For this reason, corporate and political responsibilities cannot be consistently separated in an ideal manner. The Federal Constitution also provides a regulatory basis for this position; the state should only have a stake in companies when the market is unable by itself to afford universal service provision, and so the companies are required to fulfil this role.

As a consequence of this position, the strategic objectives contain both task-related and corporate requirements. The stakeholders' interests cannot be safeguarded without the involvement of the competent authority for each sector; this makes comprehensive governance possible and avoids information asymmetries between the majority stakeholder and the company. Under this position the role of the board of directors still needs to be made clear, since its scope of action may be severely restricted by the objectives set and in some cases it may even have to expect the intervention of the majority stakeholder. Moreover, there is a latent risk that the majority stakeholder will directly or indirectly give preference to its companies and discriminate against competitors when exercising its role as sector regulator.

2. Regulation experts, in particular, believe that in fully or at least partially liberalised markets task-related objectives should be regulated without discrimination under sector-specific legislation and that their implementation should be monitored by an independent regulatory authority (eg. working conditions customary in the sector, universal service provision). Accordingly, the Federal Council's strategic objectives should not contain task-related guidelines, only corporate strategic objectives (e.g. increasing company value or safeguarding core business).

In taking this position, the Confederation would make a clearer distinction between its different roles (in particular as majority stakeholder, supervisory authority and regulatory authority). Its role as majority stakeholder would be assumed by a single organisational unit, e.g. a holding company. Furthermore, the board of directors would enjoy a greater margin of freedom and would therefore be expected to play a greater role in implementing the majority stakeholder's strategic objectives for the company. However, a clearer distinction between political responsibility and corporate responsibility may be poorly accepted by the public if the latter expects state companies to fulfil specific tasks relating to regional or social policy.

The choice of model is a political decision. Regardless of which model is chosen, however, objectives must be formulated for the right level and must be prioritised. In addition, it must be determined in a general and abstract manner how conflicting objectives will be dealt with (strategic objectives). Without more specific regulations regarding the material definition of strategic objectives, the federal administration retains a considerable scope of action.

In reviewing the objectives, the Federal Council is dependent on the information provided by the companies. This approach is based on a culture of trust, and is liable to lead to misjudgements. For example, access to benchmarking data from comparable foreign companies is only available via the companies. In addition to standardised meetings with the majority stakeholder, informal and thus not always transparent contacts between the companies, the administration, and also members of the Federal Council are important.

Examples of governance by the majority stakeholder in unusual situations indicate that there is a range of alternatives to the formal governance process, and the Federal Council may intervene in individual task-related situations, as happened during the strikes in the SBB workshops in Bellinzona. This constituted interference in the responsibility of the board. According to the Federal Council, political intervention in this situation quickly led to an appropriate resolution. However, this practice is contrary to the governance model.

The study concludes that the underlying concept of the governance model accords the majority stakeholder an appropriate governance role in the companies. However, its design has shortcomings in terms of strategic orientation, the attribution of decision-making powers at the right level and risk differentiation. Governance involving medium-term strategic objectives, as is currently practised, reaches its limits when crises or unexpected events occur.

Company performance

In the second part of the study, an evaluation shows that Swiss Post, Swisscom and SBB have been able to improve their efficiency, performance and competitiveness since becoming independent. This is demonstrated by means of a performance analysis that shows the development of the companies from a business and a customer perspective. Company key indicators since 1998 are analysed and a longitudinal comparison made with other companies in selected European countries. The analysis is based on evaluations of secondary data from companies, regulators and international organisations.

Business performance in particular has improved. Financial indicators show a positive trend for all three companies, also in an international comparison. However, it should be mentioned that the SBB has received increasing amounts of public money and the company, like all other European railway companies, would not survive in its present form without this financial support. Moreover, SBB Cargo's business performance remains very critical. The flow of public money to the SBB may have resulted in above-average mileage by international comparison, but has not yet produced a significant increase in profit.

In an international comparison, we note that relative changes in different indicators in all three companies are less significant than for other European counterparts. While SBB staff productivity is certainly the highest in absolute terms, this is not true in terms of relative changes. This is due to high initial values, which make it difficult to achieve significant increases.

From a customer perspective, the services of the federal companies have also improved, in particular in terms of customer satisfaction and punctuality. However, as these figures were also already high when the companies ceased to be fully owned by the state, the changes are also relatively small. It was difficult to interpret the development of prices at Swiss Post and Swisscom.² [1] When adjusted for purchasing power, Swisscom prices for mobile telephony lie within the European average and for landline telephony they are considerably lower than the European mean. In an international comparison, Swiss Post prices are also below the average of comparable countries. Without purchasing power adjustments, Swiss Post and Swisscom prices are considerably higher.

This report was written in response to the decision of the Control Committees of the Federal Assembly to instruct the Parliamentary Control of the Administration (PCA) to evaluate the federal governance practice of Swiss Post, Swisscom and SBB. The PCA subsequently appointed Professor Reto Steiner from the Competence Centre in Public Administration at the University of Bern, who conducted the study in collaboration with other experts and is lead author of the report.

The report is available in German and French: <http://www.parliament.ch> > Bodies and council members > Committees > Parliamentary Control of the Administration

² In the case of SBB it is difficult to make price comparisons due to the totally varied nature of tariff systems.