[FR] TF1 Found Guilty of Restrictive Practices in the Production, Edition and Advertising of Videos

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Amélie Blocman
Légipresse

On 22 December the Conseil de la concurrence (Restrictive Practices Board) gave its decision on an application made by an editor of television programmes on video against the company Télévision Française 1 (TF1) concerning two types of practices which the editor felt restricted competition. Under the amended Decree of 17 January 1990, TF1 is required to devote 3% of its turnover to commissioning original audiovisual work. However, according to the Restrictive Practices Board, the channel in fact makes its undertaking to finance these works conditional on the producer's acceptance of one of TF1's publishing subsidiaries as the exclusive editor of the work in video form. The period of exclusivity required in its co-production contracts is also considerably longer than is normally the case for clauses of this kind. Furthermore, in certain cases, the co-production contract is concluded even before the delegated producer has acquired the rights of use from the originator. TF1 acknowledged moreover that it had in fact exploited only ten works out of the thirty-three for which it acquired rights in 1994 and eight works out of the twenty-three for which rights were acquired in 1995. The Board therefore found that a producer originating a project, but obliged to abide by the clauses of the contract when the film's financing schedule was drawn up, received no assurance as to the effective exploitation of the work in the form of a video. The producer was deprived of the possibility of bringing competitive forces to bear among the competitors of the TF1 subsidiary, thereby barring them from the market. The Board found that this constituted a restrictive practice, prohibited by the order of 1 December 1986.

The Board also examined the behaviour of TF1 on the television advertising market for videos, for which the channel held a dominant position. The commercial relationship between TF1 Publicité and its subsidiary TF1 Entreprise, which edited and distributed videograms, was governed by an agreement which stated that the company TF1 Entreprises benefited from specific rates by virtue of its belonging to the TF1 group. Investigation established that TF1 treated advertisers in a discriminatory manner according to whether or not they belonged to the group. The Restrictive Practices Board held that the fact that a company benefiting from an authorisation to broadcast televised programmes terrestrially and in a dominant position allowed non-transparent, discriminatory sales conditions to its subsidiary gave the latter an unfair advantage and limited access to the advertising market for its competitors. The Board thus instructed TF1 to delete the clause in its audiovisual co-production contracts reserving exclusive

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rights of reproduction as videos for one of its subsidiaries and to stop reserving a special scheme for televised advertising of videograms for TF1 Entreprises. It also fined TF1 the sum of FRF 10 million. The company has appealed.

Décision n° 99-D-85 du 22 décembre 1999 relative à la pratique de la société Télévision Française 1 (TF1) dans le secteur de la production, de l'édition et de la publicité des vidéogrammes. Bulletin officiel de la concurrence, de la consommation et de la répression des fraudes (BOCCRF), 31 mars 2000.

Decision no. 99-D-85 of 22 December 1999 on the practice of the company Télévision Française 1 (TF1) in the sector of the production, edition and advertising of videos. Bulletin officiel de la concurrence, de la consommation et de la répression des fraudes (BOCCRF), 31 March 2000.

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