[FR] Monopolies Board Pronouncement

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On 29 March the company UGC put on sale an annual season ticket giving unlimited access, for FRF 98 a month, to the 350 cinemas in its network. The launch of the card produced an immediate reaction from the other distribution networks (MK2, Cinévog SARL, Studio du Dragon and Les Cinq Parnassiens). This led the Minister for Culture and Communication to call for sales of the UGC card to stop, as of 9 May, because of the negative opinion expressed by the cinema mediator. At the same time the other networks appealed to the Monopolies Board, calling for protective measures. The complainants said that the unlimited UGC card was being issued by a company in a dominant position in the Paris market for operating cinemas, and constituted an offer to provide services subject to a price and conditions which would have the effect of eliminating other undertakings which were not in a position to make a similar offer.

In its decision published on 25 July, the Monopolies Board stressed that the fact that a company was attempting to gain the loyalty of its clientele was not in itself a breach of competition legislation. It was only if this took the form of counter-competitive practices that it could be dealt with under competition law. Moreover, many cinema managers, including the complainants, already used season tickets as a means of encouraging loyalty among their clientele. The Monopolies Board held that the fact that the company UGC Ciné-Cité was trying to achieve the loyalty of the cinema-going public by means of a system of season tickets could not in itself be qualified as an anti-competitive practice of diverting custom. Moreover, after studying the statistics on cinema attendance in other cinemas, particularly the independent and experimental cinemas which were claiming a considerable drop in their attendance figures since the card had been on sale, the Board found that no serious, immediate threat to the complainant companies or to the cinema sector caused by the sale of the UGC card could be established. As no serious, immediate damage to the general economy or to the consumer could be established, the Monopolies Board refused to grant the protective measures requested on the grounds that the conditions required by Article 12 of the Order of 1 December 1986 were not met. Although the decision does not prohibit UGC's sale of its season ticket, the Monopolies Board nevertheless reserves the possibility of studying the principle of the matter in order to determine, in the light of the figures over a longer period of time, whether UGC is indeed in a dominant position.

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Further to this decision, Catherine Tasca, the Minister for Culture and Communication, announced that she would be instigating a "sanctions procedure" against UGC for failure to abide by the Code of the Cinematographic Industry, which requires transparency in respect of revenue and its distribution. In her opinion, the season ticket system did not achieve the total transparency required by statute.

Décision n° 00-MC-13 du 25 juillet 2000, relative à des demandes de mesures conservatoires présentées par les sociétés Cinévog SARL, Les Cinq Parnassiens SA, SNC Studio du Dragon et la société MK2 concernant les pratiques de la société UGC Ciné-Cité dans le secteur de l'exploitation des salles de cinéma.

Decision no. 00-MC-13 of 25 July 2000 on the applications for protective measures submitted by the companies Cinévog SARL, Les Cinq Parnassiens SA, SNC Studio du Dragon and MK2 concerning the practices of the company UGC Ciné-Cité in the sector of cinema management.

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