# [FR] Dispute between TPS and Canal+ Goes Back to the National Council on Competition

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The dispute between the TPS satellite package and its pay-per-view channel Multivision, on the one hand, and its competitor Canal+ and its Kiosque channel (see IRIS 1999-2: 7; IRIS 1999-7: 8 and IRIS 2000-6: 7) is not over yet. At the beginning of the year, Multivision and TPS had again applied to the Conseil de la concurrence (National Council on Competition), claiming that Canal+ had concluded on 20 May 2000 a general agreement with certain organisations representing the French cinematographic industry. Multivision and TPS considered that the combined effects of the provisions of this agreement and those of the contracts between Kiosque and producers resulted in the channel reserving exclusive rights over a period of 24 months for broadcasting on a pay-per-view basis. The producers of French films were consequently prevented from selling television broadcasting rights to Multivision. The complainants thus considered that Canal+ was persisting in "abusing its dominant position in order to maintain its control over pay-per-view television". The council found that Kiosque's practice of purchasing exclusive television broadcasting rights for recent French films for broadcasting on a pay-per-view basis and of freezing these rights for a period of 24 months (starting from the first cinema showing of the films) was serious and immediate. In fact, it could not contractually exercise such rights for more than three months. The situation would affect the sector adversely by weakening Multivision, Kiosque's only competitor in the market for pay-per-view broadcasting, which was already in the red. In fact, it made it impossible for Multivision to meet its obligations as regards quotas for broadcasting French-language films, which could in turn prevent the CSA renewing its operating authorisation and leave it open to penalties inflicted by the latter which could go as far as withdrawing its authorisation. The council also felt that reducing the choice of attractive recent films available to viewers on a pay-per-view basis was counter to the interests of consumers. Although Kiosque finally agreed to renounce exclusivity for all but five films, the council felt that the practice, even if limited in this way, could distort competition for some time, since it may be assumed that the five films would naturally be selected because they were particularly attractive. The council therefore ordered Canal+ and Kiosque to refrain from acquiring exclusive television rights either directly or indirectly for recent French-language cinema films for pay-per-view broadcasting, with no exceptions, until a decision was reached on the merits of the case.

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***Conseil de la concurrence, décision n° 01-MC-01 du 11 mai 2001 relative à une saisine et à une demande de mesures conservatoires présentées par Multivision et TPS***

*National Council on Competition, decision no. 01-MC-01 of 11 May 2001 in response to an application and a request for interim measures submitted by Multivision and TPS*

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