# [FR] Protective Measures Ordered against Télédiffusion de France (TDF)

**IRIS 2002-5:1/9**

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The Act of 1 August 2000 lays down the method for allocating broadcasting resources and the conditions under which the Conseil supérieur de l'audiovisuel (the audiovisual regulatory authority - CSA) can issue the authorisations necessary for setting up terrestrially-broadcast digital television. On 24 July last year, the CSA called for applications for this type of broadcasting (see IRIS 2001-8: 8 and IRIS 2002-2: 9) and published a list of 29 broadcasting areas corresponding to the initial planning stage. In opening up this new market, the company Antalis is offering to provide television programme editors with the technical operations necessary for the transmission and broadcasting of their services to the public. Under Article 51 of the Act of 30 September 1986 (as amended), the company Télévision Diffusion de France (TDF) has a monopoly of the broadcasting and transmission of the programmes of the public-service channels by all analog telecommunications means, and the private channels also usually make use of it for broadcasting and transmitting their programmes. As a technical broadcaster, TDF offers services aimed at allowing technical broadcasters entering this market, such as the company Antalis, to provide a service of digitally broadcasting audiovisual signals. However, Antalis can only provide this service if it has access to the TDF broadcasting sites which are essential to its future activity. As Antalis considers that the cost of access to these sites is prohibitive and that it is not able to install equivalent equipment within the time set by the legislator under reasonable economic and technical conditions, it referred these practices to the Conseil de la concurrence (Council on Competition) as it considers that they constitute unfair competition, and called on the Council to order protective measures.

Taking into account the opinion delivered by the CSA on 6 March 2002, which concluded that TDF held a "dominant position on the market for technical terrestrial broadcasting of television services", the Council, in its decision of 11 April, does not exclude the possibility of TDF being in a dominant position in the French market for analog terrestrial broadcasting of television channels and hence, potentially, in its related market (the distribution of technical services for digital terrestrial broadcasting), in which it could be in competition with Antalis. Nor does it exclude the possibility of the TDF sites located in the 29 zones defined by the CSA constituting an essential infrastructure to which TDF would be obliged to propose access under transparent, non-discriminatory, cost-oriented conditions. The Council also recalled that the economic balance of this

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broadcasting sector depended on the existence, as regards the technical broadcasting of programmes, of a choice of transparent offers that could be compared; the tariffs offered to Antalis by TDF did not appear to meet these criteria. In order to be able to make such an offer to editors in early 2003, the CSA ordered "the company TDF to communicate to any undertaking which so requests [including Antalis] an offer of hosting services covering, at a minimum, the terrestrial broadcasting sites installed in the 29 initial broadcasting zones defined by the CSA in its decision of 24 July 2001, detailed item by item, and including tariff conditions drawn up objectively, transparently and without discrimination, at a price taking account of the direct and indirect cost of the services offered, including a reasonable remuneration of the capital committed".

***Décision n° 02-MC-04 du Conseil de la concurrence 11 avril 2002 relative à une demande de mesures conservatoires présentée par la société Antalis***

*Decision no. 02-MC-04 of the Council on Competition on 11 April 2002 in response to an application by Antalis for protective measures to be ordered*

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