[FR] Fair Competition Board Suspends Allocation of TV Rights for Premier Football to Canal+

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The Conseil de la concurrence (Fair Competition Board) issued a decision on 23 January 2003 that temporarily suspends the allocation to Canal+ of the rights to broadcast matches in the premier league football championship for the season 2004-2007 on television. The decision follows on from the complaint of abuse of a dominant position brought by its satellite competitor TPS against the French professional football league (Ligue de football professionnelle - LFP) and the company Canal+ after the league had granted exclusive rights to Canal+ on 14 December last year for the record sum of EUR 480 million per year.

In examining TPS' application for the adoption of protective measures, the board began by acknowledging the admissibility of the application on the merits and noted the presence of elements that justified the continuation of its investigations. Thus it noted that the regular football competitions differed in their ability to attract and keep viewers loyal in the long term. The broadcasting rights concerning them could therefore be considered a separate market. In view of the specific characteristics of the French premier league championship, indeed it could not be ruled out that there might be an even narrower market, restricted to broadcasting rights for the matches in this championship. Nor could it be ruled out that the LFP was in a dominant position on these markets for football broadcasting rights, nor that Canal+ was in a dominant position as regards pay television (cf. case law: Canal+ v. TPS and Multivision, ending in the decision of the Court of Cassation delivered on 30 May 2000 - see IRIS 1999-2: 7; IRIS 1999-7: 8 and IRIS 2000-6: 7).

Nor could the board rule out the possibility, given the state of the case and the stage reached in the investigations, of the fees for broadcasting premier league football championship matches being crucial for the development of pay television and of exclusive allocation to Canal+, as the dominant operator in the pay television market, having a restricting effect on competition. In the same way, the fact that the offer made by Canal+, which occupies a dominant position on the pay television market, combines low values per lot with a very high exclusivity premium could be considered as constituting an eviction offer in respect of TPS. These elements will therefore be assessed when the merits of the case are being examined.

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For the time being, the announcement of the award of exclusive rights for the premier league championship to Canal+, once the general public considers it final, would have an immediate effect on the conditions for marketing subscriptions to TPS. Moreover, the financing for the exclusivity proposed by Canal+ could result in an increase in the price of subscriptions. Protective measures were therefore justified by the serious and immediate effect on the plaintiff company, on the sector and on the interests of the consumer. Pending a decision on the merits, which will not be forthcoming for at least six months, the board has therefore suspended the allocation to Canal+ of the rights to broadcast matches in the premier league football championship for the season 2004-2007 on television. Canal+ must also refrain from presenting the decision to allocate the LFP rights as being definitive and from making any advertising or commercial use of the decision in their search for new subscribers. Canal+ immediately lodged an appeal, although this does not have the effect of suspending the decision. The LNF for its part was to meet on 31 January to propose a new call for tenders.

Conseil de la concurrence, décision n° 03-MC-01 du 23 janvier 2003 relative à la saisine et à la demande de mesures conservatoires présentées par la société TPS

http://www.finances.gouv.fr/reglementation/avis/conseilconcurrence/03mc01.htm

Conseil de la concurrence (Fair Competition Board), decision no. 03-MC-01 of 23 January 2003 on the referral to the Board and the application for the adoption of protective measures submitted by the company TPS

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