[GB] Competition Commission Publishes provisional Findings on BSkyB Film Rights

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On 19 August 2011, the UK's Competition Commission (CC) published its provisional findings on the competition situation with regard to the marketing of films in the British pay-TV sector.

In its report, the CC establishes that the dominance of BSkyB in the area of pay-TV film rights limits competition between the pay-TV retailers, thus leading to higher prices and less choice for subscribers.

An important element for this assessment by the authority is that, owing to its long-standing exclusive arrangements with the six biggest Hollywood studios, BSkyB has a dominant market position with regard to the purchase of films and the first subscription pay-TV window (FSPTW), thus preventing the development of effective competition. The range of Hollywood films, if possible the latest productions, makes BSkyB attractive for a very large number of subscribers - according to the investigations, about twice as many as all the other pay-TV retailers put together - and that in turn strengthens BSkyB's economic negotiating position with regard to the acquisition of film rights compared with potential rivals.

The CC also pointed out that BSkyB charged other pay-TV retailers excessive prices for the supply of its film rights, thus making any offerings by its rivals unprofitable.

As possible remedies, the CC proposes, inter alia, restricting the number of major Hollywood studios from which BSkyB acquires exclusive FSPTW rights to films, limiting the range of exclusive FSPTW rights and/or imposing conditions on BSkyB in terms of prices and content - with rival services in mind.

Interested parties now have until mid-September to comment on the results of the investigation and the remedies proposed. The final findings report is due to be made available by the beginning of August 2012 at the latest.

According to reports, BSkyB has criticised the CC for failing to include online film providers such as Netflix and LOVEFiLM in the investigation.

As early as 2010, the British regulator Ofcom took steps against BSkyB concerning its pricing policy and the marketing of the broadcaster's premium

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sports channels (see IRIS 2010-5/26).

CC's report findings, 23 August 2011

http://www.competition-commission.org.uk/inquiries/ref2010/movies_on_pay_tv/provisional_findings_report.htm

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