# [FR] CSA Convention with Deovino Wine Channel Cancelled

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The face-off involving the two rival channels Edonys and Deovino, both of which focus on the culture, practices and art of wine, has finally reached a conclusion. In its decision of 11 July 2012, the Conseil d'Etat (France's highest administrative jurisdiction), to which the matter had been referred by the company Media Place Partners (Edonys), pronounced the cancellation of the convention that the audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) had agreed with Deovino.

Edonys ("the international vine and wine channel") had already referred the matter to the Conseil d'Etat under the urgent procedure last summer, as the CSA had refused to grant it a convention in late March 2010. At the time, the judge deliberating under the urgent procedure had refused the application for suspension of performance of the convention reached on 6 July 2011 between the CSA and its competitor Deovino. In support of its decision, it had referred to "the numerous and specific clauses in the convention signed with Deovino regarding observance of the rules governing propaganda and advertising in favour of alcoholic beverages" (see IRIS 2011-9/18).

This did not put the disappointed competitor off, however, and an application was entered to have the convention cancelled. The Conseil d'Etat observed firstly that the applicant Edonys did indeed have an interest that entitled it to take action, since it had been refused a CSA convention for its own channel devoted to wine and winemaking. It went on to recall that Article L. 3323-2 of the Public Health Code, which provides an exhaustive list of the media authorised to host direct or indirect propaganda or advertising in favour of alcoholic beverages, makes no mention of television services, and concluded accordingly that "direct or indirect propaganda or advertising in favour of alcoholic beverages is not permitted on television". The themed channel Deovino is entirely devoted to wine and winemaking, and intends to present the merits and attractions of wine. Given its very nature, the Conseil d'Etat found that broadcasting its programmes would necessarily infringe the law's ban on any direct or indirect propaganda in favour of alcoholic beverages on television services. Thus by agreeing to conclude the convention the CSA had disregarded the provisions of Article L. 3323-2 of the French Public Health Code, which result from the "Evin Act" (legislation restricting the promotion of tobacco and alcohol), despite the restrictive conditions laid down in certain clauses of the convention. One of the arguments raised by the

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defendant company editing the channel was that it had met officials from the Ministry of Health, the Department of Health, and organisations for the prevention of alcohol abuse, and done everything necessary to comply with the Evin Act in drawing up its programme schedule. The convention agreed with the CSA also stated its intentions: “the exclusion of advertising and promoting wine and alcoholic beverages; the absence of any elements specifically praising wine and alcoholic beverages, or being indulgent or promotional in their favour; and the broadcasting of programmes on the prevention of alcohol abuse”. The channel had also taken care to set up an ethical committee, comprising doctors and specialists in the prevention of abuse, with responsibility for checking in advance the appropriateness of the broadcasts in the light of the Evin Act. Unfortunately, this has apparently not been sufficient. Deovino announced that it would be “investigating all the possible options for reacting to this decision on the part of the Conseil d’Etat”.

### *Conseil d'Etat, 5e et 4e sous-sections réunies, 11 juillet 2012, SARL Media Place Partner*

http://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000026199002&fastReqId=855853194&fastPos=1

*Conseil d'Etat, 5th and 4th sub-sections combined, 11 July 2012, Media Place Partner SARL*

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