[ES] Agreement on Football Rights Found not to be in Breach of Competition Law

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On 8 January 2013, the Resolution of the *Comisión Nacional de la Competencia* (Competition Authority - CNC) found that the agreement regarding football rights between the two major media corporations Canal+ and Mediapro (August 2012) was not in breach of Spanish competition law. The Authority reasoned that the agreement was not abusive, nor was it restrictive to smaller clubs opposed to the application of the agreement.

The audiovisual rights to the Football League and the National Cup are the primary source of income for those clubs that participate in the First or the Second Division of the Football League. Until the 1997/1998 season, these audiovisual rights were centralised in the Professional Football League (LFP), which was responsible for transferring them to the individual audiovisual operators for live retransmission in parallel with the games available on open free television or on paid TV.

The system changed following an agreement by the General Assembly of the LFP on 12 April 1996, which recognized the right of every club to negotiate their rights and transfer them to third parties as their own audiovisual rights from the 1997/1998 season onwards. Since then all clubs began licensing their own individual rights following different strategies. These club rights entering the market were the cause of a legal battle between Canal+ and Mediapro. The conflict apparently terminated last summer, when both parties announced that they had reached a settlement on how to deal with the said rights.

In October 2012, the *Asociación por Nuestro Betis* (ABNP), which was set up by the shareholders and fans of the football club Real Betis, made a complaint to the Competition Authority with regard to the agreement between Prisa TV and Mediapro, both of whom are rightsholders of the Professional Football League (LFP), audiovisual rights to the League and the Spanish Cup. ABNP claimed that the agreement discriminated against small football clubs in favour of large football clubs and audiovisual services operators.

The Council of the CNC conducted an investigation into football rights. In its findings, the Council concluded that the conduct complained of “did not constitute an agreement between the Parties that breaches the Competition Act”.

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Furthermore, no evidence was found that the agreement was abusive or exclusionary or that it would be harmful to the rights of consumers.

The Judge for the Council stated that the current football audiovisual rights market is valid in having “different approaches for different football clubs” and that the presumption that the agreement in question would favour or harm some more than others, in itself is not a sufficient basis to merit intervention by the Competition Authorities. Taking into consideration all these factors, the Competition Authority decided to dismiss the claim made by APNB.

Currently, the Competition Authority has another open sanction case pending against Canal+, Telefónica and Mediapro. It is suspected that these three companies could have reached a level of anti-competitive practices through their football rights merchandise agreements with paid TV. The outcome of this pending case is independent of the final result of the above investigation.

CNC, Resolución (Expte. S/0438/12, Liga Futbol Profesional), 8 de enero de 2013

http://www.cncompetencia.es/Inicio/Expedientes/tabid/116/Default.aspx?sTipoBusqueda=3&PrPag=1&PagSel=1&Numero=S%2f0438%2f12&Ambito=Conductas

CNC Resolution No. S/0438/12, Professional Football League, 8 January 2013

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