[GB] Regulator Refuses to Suspend Auction for Premier League Football Rights

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The rights to broadcast the matches in the Premier League, the top tier of English football, are of an extraordinary value to broadcasters. They are sold as a package by the Premier League. In November 2014, following a complaint by Virgin Media, Ofcom, the UK Communications Regulator, commenced an investigation on whether the arrangements for the packaging of the rights constitutes a restriction or distortion of competition in breach of the Competition Act 1998 and/or Art. 101 of the Treaty on the Functioning of the European Union (TFEU).

An invitation to tender was issued by the Premier League for the rights to the 2016/17 to 2018/19 seasons in December 2014, with the first round of bids to be made on 6 February 2015. Virgin Media applied to Ofcom asking it to issue interim measures to suspend the action. Ofcom has power to do so under section 35 of the Competition Act 1998, if it considers that it is necessary as a matter of urgency in order to prevent significant damage to a person or category of persons or to protect the public interest. Virgin Media argued that the approach taken to the sale of the rights would lead to significant harm to television subscribers, as it would amount to an output restriction and would reduce price competition. It would also harm the public interest through eliminating competition between rights holders, distorting competition between broadcasters, restricting the number of games broadcast, leading to excessive retail prices, and damaging consumers.

Ofcom refused to grant the order to suspend the auction. The investigation into the original complaint is still ongoing and there will be a gap of around 17 months between the auction and the broadcasting of the relevant matches. Ofcom did not consider that the contracts between the Premier League and broadcasters would prevent it from imposing remedies in time to prevent harm to consumers. Ofcom has the necessary powers to require the Premier League and its clubs to take action within the time available. The Premier League had confirmed that it will put in place arrangements in contracts with broadcasters to address the consequences of a potential infringement decision. Moreover, it was not clear that a delay in the auction would address the concerns in the original complaint.

The result of the auction was that the rights were retained by Sky and BT, the current holders, but with a 71% increase in the price to £5.1 billion.

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Ofcom, "Ofcom rejects Virgin Media application to delay Premier League auction", 4 February 2015

http://media.ofcom.org.uk/news/2015/rejects-virgin-media-application-delay-premier-league/

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