[ES] Telefónica will have to compensate competitors for the rental of football pay-TV channels

IRIS 2017-6:1/14

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On 10 May 2017, Spain's Comisión Nacional de los Mercados y la Competencia (National Authority for Markets and Competition - CNMC) decided that Telefónica must compensate some of its competitors, namely Vodafone, Telecable and Total Channel, for miscalculations in the amounts they have paid as a guaranteed minimum cost by the wholesale distribution of Canal + Liga and Canal + Partidazo football channels in the 2015/2016 season. The CNMC has also decided that Telefónica had undercharged Orange and Open Cab for the guaranteed minimum cost of the said pay-TV channels.

The CNMC issued this Resolution as part of its monitoring carried out to verify whether Telefónica is complying with the commitments resulting from its acquisition of the DTS pay-TV platform in 2015 (see IRIS 2015-6/13). CNMC's authorisation of the merger of TELEFÓNICA / DTS included a number of commitments by Telefónica relating to the pay-TV market, the wholesale marketing of content and channels, and the access to its Internet network. In the case of pay-TV channels, Telefónica must have a wholesale offer so that its competitors can access its pay-TV channels with premium content and offer them through their own pay-TV platforms. To calculate the price of that (wholesale) offer, Telefónica takes into account several elements. One of them is the so-called guaranteed minimum cost, a fixed cost that must be paid by all operators and which covers the risk assumed by Telefónica when a.o. acquiring exclusive rights in Spain of football, Formula 1 or Moto GP events.

After analysing the different data sent by Telefónica and the rest of the operators, the CNMC determined that Telefónica must make certain adjustments on the way the calculation of the guaranteed minimum cost assigned to each operator is made. Accordingly, Telefónica must immediately compensate the operators that it had overcharged. The CNMC also recognizes the right of Telefónica to demand the payment of additional amounts to operators who have been undercharged for this guaranteed minimum cost.

Telefónica and Total Channel may enter into a specific bilateral agreement, given that Total Channel has not effectively exploited the football channels of the wholesale offer of Telefónica. However, such an agreement must not entail a direct or indirect prejudice for the rest of the operators.

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Press release of the CNMC, Telefónica deberá compensar a algunos de sus competidores por el alquiler de sus canales de televisión de pago de fútbol

https://www.cnmc.es/2017-05-10-telefonica-debera-compensar-algunos-de-sus-competidores-por-el-alquiler-de-sus-canales

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