[FR] Competition Authority relaxes some measures imposed on Groupe Canal Plus after its acquisition of TPS

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On 24 June 2017 the Competition Authority made changes to the set of measures imposed on Vivendi and Groupe Canal Plus (GCP) in 2012 at the time of their acquisition of TPS. Five years after the original decision, the Authority was scheduled to rule on the advisability of maintaining or lifting the injunctions in the light of the evolution of competition in the markets concerned. The injunctions were originally intended to serve three purposes: to promote the diversity of stakeholders in the pay television sector, allowing the emergence of an affordable alternative offer to that of GCP; to prevent the Group from pre-empting new forms of consuming content by offering pay-per-view subscription video-on-demand (VOD); and to preserve the system for financing the French cinema sector. To achieve this, GCP's purchasing has been regulated, and obligations drawn up to ensure clear rules for the distribution of independent channels on CanalSat. On the matter of VOD services, GCP was to refrain from concluding agreements for the distribution of its VOD services that would give them an exclusive or preferential presence on IAP platforms.

Five years on, the Competition Authority notes that GCP is still virtually the sole purchaser acquiring rights to broadcast recent films originally made in the French language. It also remains the only editor of a mixed premium channel on the market (Canal+ and its various versions), and is still an unavoidable partner for editors looking to distribute their channels. It is also evident from the Authority's analysis that GCP's position is increasingly contested in all the markets in which it operates. Furthermore, the ambitious hard-line strategy of the Altice group constitutes a major development in the market (the acquisition of rights for Premier League and Champions League matches; the launch of a series-only channel; an increased non-linear offer with unlimited VOD on SFR Play; control the takeover control of the NextRadio TV group, etc.). Altice's strategy involves the convergence of its activities as IAP, editor, and television distributor, and this must be taken into account. The second significant evolution is the development of international non-linear stakeholders (such as Netflix and Amazon), which are competing strongly with GCP on these markets.

In the light of all these developments, the Competition Authority has decided to maintain, lift or adapt the various injunctions incumbent on GPC. Firstly, regarding the acquisition of cinematographic rights, the Authority feels it is necessary to

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maintain the ban on concluding framework agreements with the holders of French cinematographic rights, while relaxing supervision of the group's purchases of cinematographic rights from American studios. The measures regarding the Group's carriage of theme channels are also to remain in place. Regarding the specific matter of premium channels, while the Authority is maintaining the obligation for GCP to carry all premium channels, it considers that it is justified in lifting the ban on the exclusive carriage of premium channels (although this is to be supervised). Regarding the measures involving the acquisition of rights for VOD and subscription VOD and the editing of the corresponding services, the Authority feels that StudioCanal's sale of exclusive rights to third-party non-linear platforms is henceforth justified, as is the supervision of the Group intended to enable alternative distributors (including IAPs) to compete effectively with exclusive distribution on CanalSat. On the other hand, given the Group's position on the market for the distribution of linear pay television services, the ban on concluding agreements providing for or encouraging the exclusive or preferential presence of its VOD and subscription VOD offer on IAP platforms is to be maintained. The new arrangements are to apply until 31 December 2019.

Autorité de la concurrence, décision n° 17-DCC-92 du 22 juin 2017 portant réexamen des injonctions de la décision n° 12-DCC-100 du 23 juillet 2012 relative à la prise de contrôle exclusif de TPS et CanalSatellite par Vivendi SA et Groupe Canal Plus

http://www.autoritedelaconcurrence.fr/pdf/avis/17DCC92versionpublication.pdf

Competition Authority, Decision No. 17-DCC-92 of 22 June 2017 re-examining the injunctions contained in Decision No. 12-DCC-100 of 23 July 2012 on the exclusive control of TPS and CanalSatellite acquired by Vivendi S.A. and Groupe Canal Plus

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