Canal+ is not required to resume broadcasting TF1 channels via TNT Sat

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On 5 September, Canal+, without giving any notice or warning, ceased broadcasting five channels operated by the TF1 group (TF1, TMC, TFX, TF1 Séries Films and LCI) via TNT Sat (a service that, in particular, enables households that cannot access DTT to receive television channels) following a commercial dispute over a new distribution contract between the parties.

The TF1 channels filed a summons for urgent proceedings before the Paris commercial court in order to bring an end to the unlawful disturbance resulting from what they considered a sudden termination of the commercial relationship. They asked the court to order Canal+ to resume broadcasting the channels, subject to a fine of EUR 200,000 per day, for at least four months.

The judge noted, firstly, that the French audiovisual regulator, ARCOM, had said that, since the dispute fell under private law, “the law does not give the regulator legal leverage to compel operators to rectify this harmful situation.” The law of 30 September 1986 did not oblige a satellite broadcaster to make DTT channels available to the public free of charge, but gave it the option to do so. The Canal+ group was therefore not obliged by law or regulation to distribute the TF1 channels via TNT Sat.

Concerning the commercial relationship, the judge observed that broadcasting the DTT channels formed an integral part of the overall commercial relationship between the TF1 and Canal+ groups as defined in the disputed contract, which had expired on 31 August 2022. The commercial relationship between the parties, within the meaning of Article L. 422 1 II 2 of the Commercial Code, had therefore ended on 31 August 2022 as far as the distribution of the DTT signal via TNT Sat was concerned. The TF1 group’s request that the unlawful disturbance resulting from the sudden termination of this supposed commercial relationship should be ended after 31 August 2022 was therefore rejected.

Similarly, since the alleged harm was a direct result of the non-renewal of the disputed 2018 contract, the unlawful character of which was not sufficiently proven in the urgent procedure, the court also rejected the TF1 group’s request that the imminent harm caused to it should be stopped.

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On 20 October, the Paris Appeal Court confirmed all provisions of the judgment. Finally, on 4 November, the TF1 and Canal+ groups announced that they had reached an agreement under which, from 7 November 2022, Canal+ would distribute all the TF1 group's DTT channels and catch-up services over the long term.

Tribunal de commerce de Paris (réf.), 22 septembre 2022, n° 2022042937, TF1 et a. c/ Groupe Canal Plus

https://www.doctrine.fr/d/TCOM/Paris/2022/UAB675AAC8E2AEEA0D5E2

Paris commercial court (urgent procedure), 22 September 2022, no. 2022042937, TF1 et al v Groupe Canal Plus

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