[FR] Competition authority conditionally approves Canal Plus Group's acquisition of OCS and Orange Studio

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On 11 July 2023, the Canal Plus Group, which produces pay and free-to-air channels, distributes pay-per-view and subscription video-on-demand, aggregates and distributes pay TV and subscription video-on-demand services, and produces, acquires and distributes films and TV series, notified the *Autorité de la concurrence* (French competition authority) of its plan to acquire exclusive control of the companies OCS and Orange Studio. Prior to the proposed transaction, OCS was jointly controlled by Orange SA and the Canal Plus Group, operating pay TV channels and a subscription video-on-demand and catch-up TV service. OCS also produces original content. Meanwhile, Orange Studio was wholly owned by Orange SA. Its main activities include the co-production, acquisition, distribution and sale of cinematographic works and TV series.

On 12 January 2024, after examining the transaction, the competition authority announced that it had approved it, subject to conditions.

As part of an investigation involving the parties and operators in the film, TV and video-on-demand sectors, the competition authority concluded that segmentation according to broadcasting mode (linear and non-linear) was no longer relevant, either in the upstream markets for the acquisition of broadcasting rights or in the intermediate markets for the production and marketing of pay TV channels.

The competition authority found that the transaction could have had a significant impact on the diversity of French cinema. It would have placed the Canal Plus Group in the position of sole pre-buyer of recent French films for first-pay-window broadcast. To date, the Canal Plus Group and OCS are the only two first-pay-window outlets available to French film producers seeking pre-financing for their projects. The disappearance of the alternative financing outlet would have entailed the risk, as was widely emphasised by the operators interviewed, of a deterioration in the diversity of French cinema, by making the new entity the sole investor in first-window pay TV.

In addition, the competition authority found that the transaction would have led to possible limitations on the availability of Orange Studio's French catalogue films on the catch-up TV services of free-to-air channels, as well as a possible reduction in the number of channels offered by certain ISPs to consumers in the French

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overseas territories, as these operators do not have sufficient alternatives for the OCS channels.

In order to address the identified risks of harm to competition, the Canal Plus Group has made a number of commitments for a five-year period, designed in particular to protect the diversity of French cinema.

Firstly, it has committed to maintain an alternative outlet for the financing of French cinema. The Canal Plus Group has committed to maintain an OCS/Ciné+ acquisition team dedicated to pre-purchasing first-pay-window French films from French producers, separate from that of Canal+ (independent decision-making, separate staff and budget, dedicated cost accounting system). In this regard, the annual budget of the Ciné+/OCS team will correspond to the amount guaranteed by OCS as part of its interprofessional agreement with cinema trade associations of 9 February 2022. To further guarantee the diversity of French cinema, the Canal Plus Group has also committed to make, on behalf of the Ciné+/OCS team, pre-purchase proposals for a minimum of 25 French film projects over five years, including at least four French film projects per year (of which one per year with a budget of less than EUR 4 million) for films rejected by the Canal+ acquisition team for first-pay-window broadcast.

In addition, to address the other anti-competitive risks identified, the Canal Plus Group has committed, for French catalogue films for which Orange Studio, prior to the transaction, is a co-producer and does not hold a distribution mandate, not to oppose the transfer of broadcasting rights to a free-to-air broadcaster’s catch-up TV service.

Décision 24-DCC-04 DU 12 janvier 2024 relative à la prise de contrôle exclusif des sociétés OCS et Orange Studio par Groupe Canal Plus (Bolloré)

https://www.autoritedelaconcurrence.fr/fr/communiques-de-presse/acquisition-docs-et-orange-studio-par-groupe-canal-plus-lautorite-conditionne

Decision 24-DCC-04 of 12 January 2024 on the acquisition of exclusive control of the companies OCS and Orange Studio by the Canal Plus Group (Bolloré)

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