Acquisition of the media unit of the Altice group by CMA CGM cleared subject to conditions

Published on June 28, 2024

Background

On 13 May 2024, the CMA CGM group notified the *Autorité de la concurrence* of the planned acquisition of exclusive control of Altice Media, the media unit of the Altice group.

After examining the transaction, the *Autorité* has cleared the acquisition subject to conditions. To address the risks of harm to competition identified, CMA CGM has entered into behavioural remedies.

The parties to the transaction

CMA CGM operates principally in sea freight transport, port terminal management, logistics and air freight transport. The group is also active in the print media sector through its titles *La Provence*, *Corse Matin*, *La Tribune* and *La Tribune du Dimanche*, as well as their associated news websites.

Altice Media is a subsidiary of Altice France. Altice Media publishes a number of pay-TV (*BFM Business TV*) and free-to-air digital terrestrial national *(BFM TV*, *RMC Découverte* and *RMC Story*) and local (10 local channels) TV channels, national radio stations broadcast over the air (*RMC* and *BFM Business*) and online

(*BFM Radio*) and their associated news websites. Pay-TV channels *RMC Sport 1* and *2* are not included in the scope of the transaction.

The *Autorité* identified a risk of foreclosure for *La Provence* competitors

While the *Autorité* was able to rule out the possibility of anticompetitive risks on most of the markets concerned by the transaction, a risk of foreclosure was identified at the local level, as the transaction would involve a merger with the local channels *BFM Marseille*, *BFM DICI*, *BFM Nice* and *BFM Toulon* (the "*BFM PACA*" channels), whose broadcast area overlaps with that of *La Provence*.

The *Autorité* found that combination strategies could be implemented by the new entity when selling ad space to advertisers on *La Provence* and the local *BFM PACA* channels. Given the sometimes quasi-monopolistic market positions held by *La Provence* and the significant number of advertisers shared by *La Provence* and *BFM PACA*, the merger could have harmed local competition and thereby reduced, over time, the number of regional daily newspapers available.

Following the transaction, the new entity would have had the ability and incentive to use its combined offerings as a lever to encourage, or compel, certain advertisers to prioritise its ad space offerings, to the detriment of the ad space offerings of *La Provence* newspaper competitors. A loss in ad revenue, at a time when the regional daily press is already experiencing economic difficulty, could lead, as a result of the transaction, to the disappearance of competing newspapers, thereby depriving readers and local advertisers of alternative offerings to those of *La Provence*.

Combination strategies

Combined offerings are offerings that consist of tying or bundling goods or services produced on separate markets. There are various kinds of combined offerings: bundled offerings (where ad spaces in the press and on TV are sold at more attractive prices than as part of standalone offerings, through discounts, for example) or tied offerings (where the sale of ad space in one media is conditional on the purchase of ad space in another media, for example).

When examining a merger concerning separate but related markets, the *Autorité* ensures the new entity resulting from the transaction will not be able to implement anticompetitive combination strategies. Such strategies would restrict competition, in particular where they allow for the sale or purchase of constituent parts of the new entity to be tied, technically or commercially, in such a way as to foreclose the market and exclude competitors.

The commitments proposed

To address the risks of harm to competition identified by the *Autorité*, CMA CGM has entered into behavioural remedies for five years.

In particular, CMA CGM has undertaken not to engage, either directly or indirectly (vis-à-vis advertisers and media agencies or through third parties), in any form of combining (including in roundabout ways, i.e. subordination or benefits/consideration) between the sale of ad space in *La Provence* and ad space on the *BFM PACA* channels (local BFM channels whose broadcast area overlaps with that of *La Provence*). Where the aforementioned ad space is sold through third parties, the notifying party undertakes to include a clause in the relevant contracts prohibiting any combining of the ad space.

As part of the implementation of the commitments, CMA CGM has also undertaken to keep the advertising departments of *La Provence* and the *BFM PACA* channels separate. CMA CGM undertakes to inform the employees of the *La Provence* and *BFM PACA* advertising departments of the commitments

and provide training thereon.

An independent monitoring trustee will monitor the implementation of the commitments.

Lastly, the *Autorité* will keep a close watch to ensure the way that the CMA CGM group is represented on the Supervisory Board of Métropole Télévision does not allow for the disclosure of commercially sensitive information.

In light of the commitments made by CMA CGM, the Autorité has cleared the transaction following the phase 1 examination.

DECISION 24-DCC-141 OF 28 JUNE 2024

regarding the acquisition of exclusive control of Altice Média by the CMA CGM group

See the full text of the decision (in French)

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