# 21 October 2015: Television

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**Under the new procedure initiated by the CSA, the Autorité de la concurrence has issued a second opinion**
**concerning the competitive impact of the switchover to free DTT**
**by the LCI, Paris Première and Planète +  pay TV channels**

**> Version française**

The Autorité releases an opinion issued today to the CSA (French Broadcasting Regulator) in which it has reassessed the competitive impact of the move to free-to-air broadcasting by the LCI, Paris Première and Planète+ channels and identified potential support measures should the CSA issue a favourable decision.

**The context of the new request for an opinion**

In June 2014, the Autorité issued a decision on this matter (opinion 14-A-07 dated 18 June 2014). Following annulment by the French Administrative Supreme court [Conseil d'État] on 17 June, on procedural grounds, of the decisions by the CSA refusing to allow the three channels to become free-to-air, the three groups, namely TF1, M6 and Canal+, submitted a new request to allow their stations to move to the free DTT, in July 2015. It is in this context that the broadcasting regulator sought the opinion of the Autorité once again, questioning in particular "*the need, (…), to make such an authorisation subject to competition-related obligations and (…), if so, which obligations might be considered* ".

**In its analysis, the Autorité took account of recent and forthcoming changes in the sector which, as a whole, were of such a nature as to relativize the competitive impact of changes in the economic models requested by the applying channels**

The analysis performed by the Autorité in the present opinion takes into account developments in the free DTT sector that have taken place since 2014 or are currently in preparation.

These developments include, in the context of stagnation of the advertising market, the alliance between NextRadioTV group and the Altice group, the announcement of a new public rolling news channel and the termination, in January 2015, of the commitments that TF1 made before the Autorité in 2010 in the context of the acquisition of control over the TMC and NT1 channels, which involved in particular the separation of the two advertising sales organisations of the group, TF1 Publicité and TMC Régie.

**The measures proposed in 2014 with respect to LCI remain relevant, but their implementation could be made more flexible especially through a rendez-vous clause**

While the above developments do not appear to fundamentally challenge to the competition analysis performed by the Autorité in its previous opinion, they make it possible overall to consider a more flexible implementation of the measures that were proposed to the CSA with respect to the switch to free-to-air broadcasting of LCI.

These measures were designed to avoid an imbalance in the television advertising market that the LCI move to free-to-air risked causing due to the position of TF1 Publicité in this marketplace. They consisted of prohibiting the coupled sales of advertising space of the two networks, TF1 and LCI, as well as crossover promotion of television programmes between the two channels.

The Autorité has today reiterated these recommendations, subject, however, to a rendez-vous clause that will make it possible, if necessary, to adapt or even halt their implementation within a period of eighteen months to two years.

**The recommendations of the Autorité de la concurrence**

• *Not to combine advertising space*

To the extent that advertising agencies in competition with TF1 Publicité do not appear able to replicate the combined offers that TF1 could introduce between the advertising space on its leading channel TF1 and its free LCI channel, the Autorité considers it desirable to ban them, without it being necessary, however, to force the TF1 Group to operate a separate agency for marketing advertising space in the LCI channel.

• *Not to engage in cross-promotion or cross-advertising*

A ban on promotions and the advertising of LCI programmes on the TF1 channel would enable LCI to develop its audience through its own merits and not via the effect that this channel might achieve through its exposure on TF1, whose audience share remains comparatively high.

• *A rendez-vous clause for eighteen months to two years hence*

Although developments in the sector do not currently seem to be of such a nature as to challenge the relevance of the measures considered in 2014, the Autorité proposes that the CSA combine implementation of these bans with a rendez-vous clause, enabling it to re-assess, in eighteen months' to two years' time, the suitability of these measures in relation to possible changes in the free DTT landscape.

***> Full text of Opinion 15-A-14 of 21 October 2015 relating to a request for an opinion from the French Broadcasting Regulator on the basis of Article 41-4 of the Act of 30 September 1986 on the request for switchover to the free DTT of the channels LCI, Paris Première and Planète +***

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