

Following the referral of M6 regarding practices of TF1 Publicité, the Autorité de la concurrence dismisses the case

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The complaint of M6 regarding TF1 Publicité

In its referral, M6 denounced the discount and matching practices implemented by TF1 Publicité in the television advertising market. M6 considered that:

- TF1 Publicité would condition the granting of an overall discount rate to the advertiser's commitment to invest in the TF1 channel all or a significant portion of the amount of its TV advertising budget allocated to all historical terrestrial channels;
- TF1 Publicité would jointly market the advertising spaces of TF1, HD1 and Numéro 23 channels

M6 then withdrew its referral but the Autorité nevertheless considered it useful to continue the investigation to rule on the facts.

The market of television advertising

The competitive dynamics of the television advertising sector have evolved significantly over the last 10 years. The emergence of new DTT channels since 2005 has led to a considerable increase in the total television advertising spaces offered. It also led to a fragmentation of the audience and of the investments of advertisers while, at the same time, total advertising revenues of the sector have stagnated, or even decreased.

Furthermore, TF1's position in the television advertising market has sharply declined since 2007, while that of M6 Publicité has strengthened. In addition, the number and proportion of powerful screens¹ - historically owned by the TF1

channel - have dropped significantly. Moreover, according to media agencies, these screens are no longer as attractive to advertisers who, via media agencies, for several years now, have had strong bargaining power vis-à-vis advertising agencies. Finally, new agencies, such as Disney Media+ and belN Régie, have respectively entered the market in 2014 and 2016.

Thus, TF1 Publicité no longer has the economic power it enjoyed a few years ago.

On discount practices

The existence of an exclusive discount would require TF1 Publicité to condition the grant of the overall discount rate to the advertiser's commitment to invest all or a significant portion of its television advertising space requirements in the TF1 channel. However, it appears from the investigation that TF1 Publicité never conditions the granting of the overall discount rate to such a commitment by the advertiser. Any advertiser committing to make investments in the TF1 channel can benefit from an overall discount rate, regardless of the proportion that this investment represents in relation to the amount of its television advertising budget.

Moreover, the inherent characteristics of the overall discount rate and the structural changes in the television advertising market do not make it possible to identify the existence of loyalty discounts other than exclusive discounts. In particular, according to the convergent statements of media agencies, it has been possible, for several years, for advertisers to no longer make advertising investments in the TF1 channel and, more particularly, in its powerful screens, so that a possible loyalty effect of TF1 rebates is not established.

On the coupled sale of advertising spaces of TF1, HD1 and Numéro 23 channels

The mere possession by TF1 Publicité of a diversified portfolio of channels and of the corresponding television advertising spaces could not itself constitute an abusive practice. Only if TF1 Publicité were to rely on the powerful screens of TF1 to develop the sale of HD1 and Numéro 23 advertising spaces - by coupling, subordination, advantage or with counterpart - would its behavior be

reprehensible. However, as already demonstrated by the Autorité in a recent decision², these practices are not established.

In view of all these elements, the Autorité has decided to dismiss the case.

¹ Audience measures are used to evaluate the number of viewers who watch a commercial spot and to assign a number of "gross rating points" (GRP) to each target. Screens above 8 GRP are considered powerful screens. An advertising screen broadcast in prime time on TF1 is considered a powerful screen.

² See decision 17-D-11 of 25 July 2017

> See the full text of the decision 19-D-07 regarding practices implemented in the sector of television advertising (In French)

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