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The *Autorité de la concurrence* considers that the conditions are not currently satisfied to lift the ban on exclusive broadcasting of premium sports channels pronounced on Canal Plus.

The *Autorité* will engage, during the upcoming twelve months, in an in-depth work in dialogue with all the stakeholders, in order to reassess the entirety of the injunctions imposed in 2012 and to define a distinct and predictable framework for the 2017-2022 period.

> French version 

Further to the observation of non-compliance concerning several commitments conditioning decision of 30 August 2006 to clear Vivendi Universal's and Canal Plus' acquisition of sole control of TPS and CanalSatellite, the *Autorité de la concurrence* had withdrawn its clearance by the decision of 20 September 2011. As a result, Vivendi and Canal Plus Group (*Groupe Canal Plus*, hereafter named "GCP") renotified the transaction to the *Autorité de la concurrence*. The new merger review led to the decision 12-DCC-100 (see press release of 23 July 2012), in which the *Autorité de la concurrence* has cleared it again, although subject to compliance with thirty-three injunctions aiming at restoring sufficient competition on pay TV markets.

The injunctions were issued for a five-year period, by the end of which a review of the competition situation is scheduled in order to determine the relevance of their upholding. The *Autorité*'s decision also provided the possibility for Vivendi and Canal Plus groups to ask for the lift or the amendment of these measures in case of substantial evolution of market conditions.

Among these measures is notably featured injunction no.4(a), constraining the groups to resume the broadcasting of premium channels on CanalSat, in particular sports channels, under **non-exclusive distribution**.

THE ANTICIPATED INJUNCTIONS REVIEW REQUEST FROM GROUP CANAL PLUS

The review request submitted by Canal Plus Group ("GCP") aims at obtaining clearance for the acquisition of exclusive broadcasting rights of all independent premium sports-themed channel, in order to conclude a contract on the exclusive distribution of beIN Sports' channel.

This request was subject to consultation of the different operators active on the involved markets (TV channels, sports rights' holders, pay TV distributors, in particular ISPs, etc) and multiple discussions between investigation services and GCP. Referred to by the *Autorité*, the French Broacasting Regulator (*Conseil Supérieur de l'audiovisuel*, "CSA") issued its opinion 2016-06 on 13 April 2016 regarding GCP's anticipated review request.

In order to relieve anticompetitive concerns persistent to the end of the investigation, GCP proposed a range of commitments run through a market test among concerned market players on 19 May 2016.

MATTERS OF LAW AND FACT HAVE NOT BEEN SUBSTANTIALLY ALTERED SINCE THE 2012 DECISION

Upon completion of a detailed examination of the different elements of the case, the *Autorité de la concurrence* considers the anticipated review of the injunctions no.4(a) and 8(a) to be unjustified to this date, shall it be accompanied by the adoption of the commitments proposed by GCP.

Matters of law and fact taken into account at the time of the adoption of decision 12-DCC-100 have indeed not been substantially altered to the extent of calling

into question the competition analysis conducted in 2012 and justifying the injunctions no.4(a) and 8(a), which therefore remain necessary.

On the upstream market of sports rights acquisition, the *Autorité* notes that, as in 2012, GCP and beIN Sports hold the broadcasting rights of the quasi-entirety of the most appealing sports competitions, particularly football rights (*League 1*). The market structure, close to a duopoly between GCP and beIN Sports, is still characterized by GCP's dominance. The acquisition of English Premier League's rights by the Altice company remains to date an isolated experience, thus not proving the emergence of a sufficient and sustainable competition on the market.

Likewise, on the downstream market of distribution of pay TV services, GCP preserves its dominant position with a market share between 70 and 80%.

THE *AUTORITÉ* IS KEEN TO MAINTAINING THE CONSISTENCY AND THE EFFICIENCY OF THE REMEDIES IMPOSED IN 2012

The measures implemented in 2012 are consistent as a whole. For instance, the *Autorité* considers, in accordance with the opinion issued by the CSA, the injunction no.4 impossible to be analyzed independently of injunctions no.3, 5 and 6, aimed at preserving competition on the editing and broadcasting market of special-interests channels, while maintaining consumer's choice and access to differentiated offers in terms of content and prices.

More generally, these injunctions insure, since their implementation, clear game rules for independent channels to access CanalSat broadcasting. They allow GCP's competing distributors as well, particularly the ISPs, to compete efficiently against CanalSat's channels under exclusive broadcasting, by being given the opportunity to access appealing contents.

The *Autorité* therefore considers, in accordance with the CSA, that any isolated revamping of injunction no.4(a) risks to put in jeopardy the beneficial effects of this range of measures, of which the *Autorité* is eager to maintain the consistency and efficiency.

> See list of injunctions issued in 2012.

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