Reawarding of the football Ligue 1's TV rights: The Autorité de la concurrence rejects Canal + Group's complaint against the LFP, for lack of sufficient evidence

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Background

On 29 January 2021, Canal Plus Group ("GCP") referred practices allegedly implemented by the *Ligue de Football Professionnel* ("LFP") to the *Autorité de la concurrence* when the football *Ligue 1's* broadcasting rights were put back on the market in January 2021. It reproached the LFP, following the failure of Mediapro, of having committed an abuse of a dominant position by releasing on the market only the rights returned by Mediapro, without including rights corresponding to lot 3 (Saturdays 9 p.m. and Sundays 5 p.m. matches), awarded on 29 May 2018 to beIN Sports, which had subsequently sub-licensed it to GCP.

That complaint on the merits of the case was accompanied by a request for interim measures.

At the end of its investigation, the *Autorité* dismissed GCP's complaint on the merits of the case and the associated request for interim measures, considering that they were not supported by sufficient evidence.

The call for tenders launched in 2018 by the LFP

Broadcasting rights for the Football *Ligue 1* are allocated by the LFP, which centralises their marketing on behalf of professional football clubs. Since 2008, these rights have been granted for four-year cycles, following calls for tenders.

In April 2018, the LFP launched a call for tenders for the *Ligue 1*'s rights[1], divided into several lots, for the seasons 2020-2021 to 2023-2024.

[1] The *Ligue 2* rights were also included.

Lot 1	1 match par journée de Ligue 1 (le dimanche à 21h00) soit 38 matchs comprenant 10 matches de choix 1 (Top 10) et 28 matchs de choix 3
Lot 2	2 matches par journée de Ligue 1 (le vendredi à 21h00 et le samedi à 17h00) soit 76 matchs de choix 1 à 5
Lot 3	2 matches par journée de Ligue 1 (le samedi à 21h00 et le dimanche à 17h00) soit 76 matchs de choix 1 à 5
Lot 4	5 matchs par journée de Ligue 1 (le dimanche à 13h00 et à 15h00) soit 190 matchs comprenant 2 matchs de choix 1^{7} (hors Top 10), 36 matchs de choix 6 et 152 matchs de choix 7 à 10, ainsi que 1 match par journée en co-diffusion
Lot 5	Les 3 multiplex des $19^{ème}$, $37^{ème}$ et $38^{ème}$ journée de Ligue 1, le trophée des champions et 2 matchs de barrage
Lot 6	Tous les matchs de Ligue 1 sous forme d'extraits en quasi-direct
Lot 7	Magazines uniquement

Lot 1	1 match per Championship day (Sundays at 9pm) meaning 38 matches including 10 first choice matches (Top 10) and 28 third choice matches
Lot 2	2 matches per Championship day (Fridays at 9pm and Saturdays 5pm) meaning 76 first to fifth choice matches
Lot 3	2 matches per Championship day (Saturdays at 9pm and Sundays at 5pm) meaning 76 first to fifth choice matches
Lot 4	5 matches per Championship day (Sundays at 1pm and 3pm) meaning 190 matches including 2 first choice matches (excluding Top 10), 36 sixth choice matches and 152 seventh to tenth choice matches, as well as 1 match per day in co-broadcasting
Lot 5	The 3 multiplex of 19th, 37th and 38th Championship day, the Champions trophy and 2 relegation play-off matches
Lot 6	Extracts from all Championship matches in almost live
Lot 7	Only magazines

At the end of the call for tenders, the rights were allocated to the following operators:

Lot	Opérateur attributaire

Lot 1	Mediapro
Lot 2	Mediapro
Lot 3	beIN Sports (a sub-licence contract was subsequently signed on 11 February 2020 between beIN Sports and GCP, which broadcasts the matches of this lot)
Lot 4	Mediapro
Lot 5	Mediapro
Lot 6	Free
Lot 7	Mediapro

The failure of Mediapro and the broadcasting rights held by Mediapro put back on the market

To exploit the rights it had been awarded, Mediapro launched the Telefoot channel on 17 August 2020. However it quickly encountered difficulties in honouring the rights payment deadlines to the LFP. After several months of negotiations, Mediapro and the LFP finally agreed on an early termination of the contract between them. This agreement was approved by the Nanterre Commercial Court on 22 December 2020.

Following the restitution of the rights by Mediapro, the LFP organised in January 2021 a market consultation for the reawarding only of the rights previously awarded to Mediapro The consultation, launched on 19 January 2021, was declared unsuccessful as the LFP received offers (from Amazon, Discovery and DAZN) below the reserve prices.

GCP's complaint

At the same time as proceedings before the commercial court[1], GCP lodged a complaint before the *Autorité* reproaching the LFP of having put back on the market only the rights returned by Mediapro, without including lot 3. In doing so, the LFP would have, on the one hand, imposed unfair trading conditions on GCP and, on the other hand, discriminated against GCP in relation to other buyers of *Ligue 1* rights.

GCP also requested the issuing of interim measures with a view to ordering the LFP to organise a new call for tenders, this time covering all the *Ligue 1* rights (including lot 3) and suspend the execution of any contract resulting from the market consultation launched by the LFP.

The agreement between GCP and the LFP

In parallel with the proceedings initiated before the commercial court and the *Autorité*, GCP and the LFP concluded a comprehensive agreement, made public on 4 February 2021, concerning the *Ligue 1* and Ligue 2 broadcasting rights for the end of the 2020-2021 season.

The Autorité's analysis

- *On unfair trading conditions*

The *Autorité* considered that the LFP's choice not to include lot 3 in the market consultation was both necessary and proportionate. On the one hand, indeed, it cannot be envisaged to require the LFP to terminate the contract concluded with beIN Sports on lot 3, this contract being duly formed, having never been contested in court and being perfectly executed. On the other hand, such a requirement would be all the less justified as the LFP's objective was to best protect its interests and those of the clubs following the failure of Mediapro, for which it cannot be held responsible. In a context further marked by the health crisis, which has degraded the income prospects of football clubs, the LFP had no interest, quite the contrary, in terminating the contract for lot 3.

- *On the discrimination against GCP*

The *Autorité* noted that the terms of submission to the LFP market consultation appeared, as the case stood, both in line with the recommendations of the competition authorities, and identical for all potential candidates. Furthermore, the fact that GCP bears alone, given the sub-license agreement freely signed with beIN Sports, the financial burden associated with lot 3, is irrelevant for the analysis of a situation of discrimination. Indeed, the other potential candidates could also have already acquired rights relating to *Ligue 1* or other sporting competitions and could themselves also be confronted, particularly with regard to new entrants, with the need to organise in a constrained time the distribution

of their commercial offers and a schedule of programs. On the contrary, GCP could benefit from its presence in the market for the distribution of pay television services and its long-standing experience in the market for the acquisition of *Ligue 1* rights.

The 2021 market consultation therefore does not appear to be discriminatory, since it treated all candidates in an equivalent situation in the same way.

In view of all of those elements, the *Autorité* rejected the complaint on the merits of the case from GCP and, consequently, the associated request for interim measures.

[1] GCP sued the LFP before the Paris Commercial Court, in order to obtain the cancellation of the consultation, on the grounds that it did not include lot 3, and asking it to order the LFP to organise a call for tenders for all Ligue 1 broadcasting rights for the seasons 2021-2022 to 2023-2024 (including lot 3). On 11 March 2021, the commercial court dismissed its request.

DECISION 21-D-12 OF 11 JUNE 2021

regarding practices implemented by the Ligue de Football Professionnel in the sector of the sale of television broadcasting rights for sports competitions

See full text of the decision

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