Adherence to injunction : non-suit in Canal Plus case

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Following a dual referral by the Minister of Economy and the companies Multivision and TPS concerning Canal Plus' failure to adhere to injunctions issued against it by the Paris Court of Appeal on 15th June 1999, the *Conseil de la concurrence* declared non-suit to continue with the proceedings.

Reminder of the facts

The *Conseil de la concurrence* (decision 98-D-70 of 24th November 1998) and then the Paris Court of Appeal (decision of 15th June 1999) had ordered the company Canal Plus to withdraw the method of pay-per-view broadcasting from the exclusivity field it negotiates with producers of recent French films, and to modify its standard contracts accordingly.

Non-suit decision

The *Conseil de la concurrence* took the view that the company Canal Plus had adhered to the injunction imposed, by modifying the clauses of its standard contract and reaching exclusivity contracts with producers that no longer apply to pay-per-view broadcasting (where customers pay an extra fee to watch a specific broadcast).

Case to be continued…

During the case, the plaintiffs claimed that Canal Plus had used various procedures to deprive the injunction of any useful effect. They also claimed that in practice, Canal Plus had continued to exert various forms of pressure on film producers and acted via the intermediary of its subsidiary Kiosque, to link the prepurchase of exclusive subscription television rights for certain films to the

acquisition of exclusive rights for pay-per-view broadcasting.

During proceedings concerning the adherence of parties to injunctions, the *Conseil* may only penalise practices resulting from failure to adhere to the injunction, and must restrict itself to interpreting the strict wording of the injunction, in accordance with relevant case law.

However, the practices denounced will be the subject of a full inquiry, as part of other proceedings in progress, which have already resulted in an interim measure being issued on 11th May 2001 (decision 01-MC-01). The inquiry and the related documents are therefore turned over to this case.

See the decision (01-D-75)