



EUROPEAN COMMISSION - PRESS RELEASE

Antitrust: the Commission calls on France to ensure non-discriminatory allocation of digital TV broadcasting frequencies

Brussels, 29 September 2011 – The Commission expects France to bring its procedure for granting digital TV broadcasting frequencies into line with European Union law in order to enable French viewers to benefit from enhanced digital terrestrial TV programming as rapidly as possible. The Commission is of the opinion that the French system under which three incumbent broadcasters¹ were granted additional TV channels ('compensatory channels') without any competitive tendering procedure is contrary to European Union law, penalises rival broadcasters and deprives French viewers of more attractive programming. The Commission's request takes the form of a 'reasoned opinion' under EU infringement proceedings. France now has two months to comply with the relevant EU law, otherwise the Commission may refer it to the Court of Justice of the European Union.

The transition from analog to digital broadcasting by 2012 constitutes one of the EU's [policy](#) objectives. This change provides the possibility of recycling a significant proportion of the radio frequency spectrum for new services and for additional programmes ('the digital dividend'). In order to make certain that this digital dividend leads to the entry of new players capable of breathing new life into the market and expanding viewer choice, the Commission ensures its allocation by way of open, transparent, objective, non-discriminatory and proportionate procedures, except for the specific case of channels pursuing general interest objectives.

The system for allocating additional TV channels without any competitive tendering procedure set up in France in 2007 to anticipate the switchover to digital terrestrial television is contrary to European Union law on a number of grounds. First, such a procedure can only be adopted in the specific case of channels pursuing general interest objectives, which is not true of the three channels in question.

In addition, the granting of frequencies by way of compensation does not seem consistent with the notion of proportionality, since the alleged prejudice caused to the broadcasters concerned by bringing the date forward for the end of analog broadcasting by a couple of months appears negligible and may even have been offset by advantages granted in the past. Furthermore, the Commission regards the automatic award of additional channels, when new entrants are obliged to take part in a call for applications, with no guarantee of success, as a form of discrimination.

¹ Canal+, TF1 and M6.

The EU legislation applying is the following:

Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services ([‘Competition Directive’](#)), Official Journal L 249, 17.9.2002, pp. 21-26.

Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services ([‘Authorisation Directive’](#)), Official Journal L 108, 24.4.2002, pp. 21-32.

For more information on EU infringement proceedings, see [MEMO/11/646](#).

Current figures on infringements in general can be found [here](#).

Contacts :

[Amelia Torres](#) (+32 2 295 46 29)

[Marisa Gonzalez Iglesias](#) (+32 2 295 19 25)