

Kluwer Competition Law Blog

The Romanian Competition Council Accepted the Amendment of the Commitments Undertaken by the Romanian Football Federation in 2011

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On 19th of April 2011, the Romanian Competition Council (the “RCC”) closed the investigation against the Romanian Football Federation and its members, as well as against the Football Professional League and its members regarding the potential breach of the Romanian and European antitrust rules by joint commercialisation of the commercial rights on football competitions, following acceptance of the commitments proposed by the investigated undertakings. Recently, the investigation was open again in order to assess the request of the Romanian Football Federation for amendment of the commitments undertaken in 2011. The aforementioned request of the Romanian Football Federation was grounded on the change of the market conditions, mainly as consequences of the economic crisis.

The most relevant proposals for amendment of the commitments addressed by the Romanian Football Federation to the RCC concerned especially the restructuring of the groups of commercial rights regarding television direct broadcasting to be sold at once depending on the type and/or the number of matches, but also the change of the conditions of application of the *no single buyer* principle with respect to the sale of the television rights. As regards the acquisition of television rights, the Romanian Football Federation proposed to apply the principle according to which only three of the five groups of rights regarding television direct broadcasting related to the Cup of Romania and to the SuperCup (starting with matches of 1/16) could be acquired by a single undertaking. On the other hand, it was proposed for the matches organising team to take advantage of the advertising and publicity rights on the stadium/playground, but still preserving the Romanian Football Federation’s right to take advantage of such rights at the same time and unexclusively.

Following assessment of the amendments proposed by the Romanian Football Federation, by its Decision no. 44 of 10th of August 2012^[1], the RCC concluded that the amended commitments of the Romanian Football Federation are suitable in order to eliminate the concerns of the RCC, considering that they are creating the premises of obtaining benefits for all the involved parties, namely the radiobroadcasters, the television viewers and the Romanian Football Federation, for the reasons below:

- The competition is divided into several sub-groups (packages) of TV options, offering to all the interested parties the possibility to participate to the procurement procedure under equal, transparent and non-discriminatory conditions;

- The settlement of effective groups of matches and the clear delimitation of the choice options offers to the radiobroadcasters an optimal competitive environment providing benefits also to the final consumers;
- The designation of one of the TV rights groups (packages) only to the radiobroadcasters whose programs services are free for rebroadcasting, without technical or financial conditions, allow to all the radiobroadcasters broadcasting under the aforementioned terms, who did not acquired for any reason one or several groups (packages) of rights including direct television broadcasting rights, to provide the recorded matches to the viewers, including summaries of such matches. Moreover, the said group (package) of TV rights will allow to the viewers to watch any of the matches, as well as matches analysis shows or specialised programmes based on the summaries of the matches, even if no radiobroadcaster acquires the groups (packages) of rights including the direct broadcasting rights;
- The principle *no single buyer* serves the direct interest of the television viewers.

The RCC considered also that the media commercial rights represent one of the most important financial resources for the football clubs, which could ensure the minimum financial security for supporting their activities, priorities and projects and that the offering of such commercial rights to all the interested undertakings, taking into account also the interest of the Romanian Football Federation to develop the football and to obtain remarkable sports performances, is a priority.

Based on the aforementioned reasoning, the RCC decided to accept the amendment of the commitments, in the form proposed by the Romanian Football Federation and to close the reopened investigation. The commitments undertaken by the Romanian Football Federation, as amended, will be applicable for the competition seasons 2012/2013, 2013/2014 and 2014/2015. However, the RCC's decision is still subject to appeal to the Court of Appeal of Bucharest.

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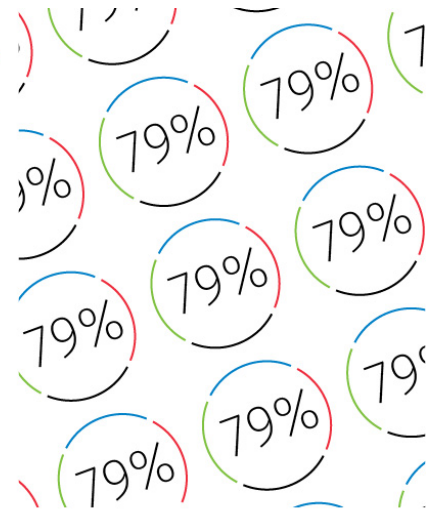
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