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MC Vision Ltd amends its autorenewal and termination clause of its subscription agreement for Canal + subscribers

Introduction

The Competition Commission has conducted an enquiry into the autorenewal and termination clauses in the subscription agreements of MC Vision Ltd. The enquiry was initiated following several complaints received from subscribers of Canal +, alleging that their subscriptions were automatically renewed without adequate opportunity for cancellation. They had to wait until the end of the renewed subscription period, usually 1 year, to cancel their subscription.

The enquiry examined whether MC Vision Ltd's contractual terms *could* be considered an exclusionary or exploitative abuse of a monopoly situation within the meaning of the Competition Act 2007. There was concern that such clause may unduly restrain the ability of consumer to switch to competing service by creating an artificially high exit cost (cost to terminate the contract) and as such may affect competition. For example, if a subscriber wanted to shift or end his agreement he had to wait till the end of the contract, and that may mean he had to wait for up to 11 months and pay for his existing subscription meanwhile.

The matter has also been probed into by the Independent Broadcasting Authority (IBA), the authority regulating radio and television broadcasting in Mauritius, and from which MC Vision Ltd has a subscription television broadcasting license. The IBA also intervened into the matter to address the issue, from its regulatory perspective.

MC Vision Ltd has amended the contractual clauses. Consequently, the issue has been appreciably addressed and as such, the enquiry has been closed.

Amendments to the terms and conditions of the contracts of subscribers

MC Vision Ltd has revised its terms and conditions for its subscription agreements. Customers will now have a choice among various contractual options such as *"contrat sans engagement"* and *"contrat avec engagement"* for 12, 24, and 36 months, respectively. The revised terms allow subscribers to terminate their contracts more flexibly, with a 1-month notice period after the initial engagement period (period during which the subscription cannot be terminated); engagement which seems reasonable to enable MC Vision Ltd to recoup its sunk costs (costs that cannot be recovered).

The Competition Commission has analysed the amendments and believes that in view of the amendments there is no need for further assessment.

For competition to work in an effective manner, it is important that customers are able to switch between competing suppliers. This allows suppliers to compete, so as to attract more clients. However, if suppliers in monopoly situations artificially lock their clients, this may prevent them from switching to competitors, and this may stifle competition.

Thus, the main concern was that the previous contract of MC Vision Ltd locked clients in a similar manner. If clients wanted to shift, they had to wait for termination of their existing contract which was automatically renewed, or they had to pay for the rest of the contract. This may in turn dissuade clients to shift and may thus stifle competition. While enterprises in a monopoly situation may take reasonable steps to secure their investments/sunk costs and allow them to recoup such costs, they must be careful not to impose restrictions which are disproportionate to that requirement.

This case has been an opportunity to collaborate with the IBA, and to take a holistic approach to the matter.

The collaborative stand taken by MC Vision Ltd is much appreciated on this matter to comply with regulatory requirements and change the terms and conditions for the betterment of competition and consumer choice. Consumers will now be able to benefit from more choices and improved competition while enjoying fairer contractual terms.

End of media release