



Press and Information

General Court of the European Union

PRESS RELEASE No 83/10

Luxembourg, 13 September 2010

Judgment in Case T-193/06

Télévision française 1 SA (TF1) v Commission

The General Court dismisses the action brought by TF1 seeking annulment of the Commission decision of 2006 approving French aid in support of cinematographic and audiovisual production

TF1 has not demonstrated that it was individually concerned by that decision

French legislation includes measures to support cinematographic and audiovisual production. These measures involve, first, support mechanisms for producers, implemented by the Centre national de la cinématographie (National cinematographic centre) ('the CNC'). These mechanisms are financed, inter alia, by a tax on the turnover of television service providers. The measures include, secondly, obligations imposed on television service providers to invest in cinematographic and audiovisual production, in amounts determined by application of a percentage to their turnover.

These investment obligations must, for at least two thirds of those in the audiovisual field and for at least three quarters of those in the cinematographic field, be earmarked for independent production, the concept of 'independent production' meaning that the producer of the work is independent in relation to the television service provider which finances that work, and it is defined according to certain criteria. Those criteria include the reciprocal holding of share capital or voting rights by the producer and the television service provider concerned and that service provider's share in that producer's recent work.

Likewise, the CNC support measures for audiovisual production must benefit independent production undertakings, the concept of independent producer being defined in the same terms as in the area of investment obligations.

The French system of support for cinematographic and audiovisual production has been approved by the Commission several times, in 1992 and in 1998. By the decision of 22 March 2006¹, the Commission declared that the new financial support measures granted through the CNC for cinematographic and audiovisual production in France were compatible with the common market, taking the view that the investment obligations did not involve State resources and did not therefore constitute State aid.

As it is of the opinion that the amendments made to the aid schemes for cinema and television constitute unlawful State aid, TF1 brought an action before the General Court by which it sought to have that latter Commission decision annulled.

By judgment delivered today, the General Court examines the admissibility of the action brought by TF1 and notes that it is required to assess whether, in this case, TF1 can be considered to be individually concerned by the Commission decision.

The General Court notes that TF1 has not specifically and precisely demonstrated that its competitive position is substantially affected in relation to its competitors, television service

¹ Decision C(2006) 832 final of 22 March 2006 relating to support measures for the cinema and audiovisual industry in France (aid cases NN 84/2004 and N 95/2004 – France, Aid schemes for the cinema and audiovisual industry) (OJ 2006 C 305, p. 12). This summary publication includes a link to the Commission internet site giving access to the full text of the decision.

providers and large audiovisual communications groups which are beneficiaries of the measures at issue.

In the first place, TF1 has not demonstrated that its competitive position is substantially affected in relation to the other television service providers.

With regard, first of all, to the **investment obligations**, TF1 did not put forward any arguments that the other television service providers are subject to different conditions from those imposed on TF1 and which are such as to have a substantial effect on its competitive position. Although, as it claims, its expenses under the investment obligations exceed those of its competitors, such as, in particular, France 2, France 3 and M6, the General Court nonetheless finds that those providers are bound by investment obligations to the same extent as a result of the application of the same percentage to their turnover.

Moreover, the fact that, under French law, the amount of the investment obligations is calculated by reference to the turnover of the television service provider, and not in relation to its programming budget, as provided for by Directive 89/552, does not support the conclusion that that method of calculation places TF1 in a situation which differs from that of the other television service providers.

Finally, TF1 has not demonstrated how the definition of 'independent production' in French law – which implies, in particular, that the producer must be independent of the television service provider which is commissioning the work in question – can place it in a different situation from that of the other television service providers, with regard to the possibility of developing its production activity.

Next, with regard to the **CNC support measures**, which are financed through, inter alia, the tax paid by the television service providers and calculated on the basis of a percentage of their turnover, TF1 has not demonstrated that its competitive position is substantially affected in relation to its competitors.

In the second place, TF1 has not demonstrated that its competitive position is affected in relation to large audiovisual communications groups, since TF1 has not defined those groups precisely or indicated, in a sufficiently precise manner, its competitive position in relation to them.

Consequently, the General Court dismisses the action brought by TF1.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

Unofficial document for media use, not binding on the General Court.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery

Press contact: Christopher Fretwell ☎ (+352) 4303 3355