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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/07/26/2024

Decision[1] of the 113th Meeting of the Committee Responsible for Initial Determinations Regarding the Proposed Acquisition of MC Vision Ltd by Canal+ International SAS

ECONOMIC SECTOR: Pay-TV Services

20 December 2024

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[1] In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**COMESA Treaty**");

Having regard to the COMESA Competition Regulations of 2004 (the "**Regulations**"), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the "**Rules**");

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirous of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 21 August 2024, the Commission received a notification for approval of a merger involving Canal+ International SAS ("**Canal+**" or the "**Acquirer**") and MC Vision Ltd ("**MC Vision**" or the "**Target**"), pursuant to Article 24(1) of the Regulations.

2. Following the notification of the merger, the Competition Commission of Mauritius requested for a referral of part of the transaction affecting Mauritius in line with Article 24(8) of the Regulations. On 21 October 2024, the Commission referred part of the transaction relating to the Mauritian market to Mauritius for review under its national competition law, pursuant to Article 24(9)(b) of the Regulations.

3. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the transaction between the parties would or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.

4. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.

The Parties

Canal+ (the "acquirer")

5. The parties submitted that Canal+ was part of the Vivendi Group and was a wholly owned subsidiary of Vivendi, a publicly traded Societas Europaea based in Paris, France[2], the latter being, at the date of the notification to the CCC, a media conglomerate that operated globally in the content (entertainment), media, and communications sectors[3].

6. Canal+ is a Pay-Tv broadcaster, engaged in the production, bundling, and distribution of a wide array of audio-visual content across genres, predominately in French language. Its operations span globally, including in Africa, Asia-Pacific, and Europe

7. In Mauritius, Canal+ is directly involved in the upstream market, which includes:

    a. acquiring broadcasting rights for TV channels for the Mauritian market.

    b. marketing and licensing these TV channels to Pay-Tv operators in Mauritius.

8. The TV channels acquired by Canal+ include content from both the Canal+ group (basic and premium Canal+ channels) and third-party providers.

9. As part of its investment in MC Vision, Canal+ acts as a strategic partner and supplies TV Channels to MC Vision on an exclusive basis. Nevertheless, Groupe Canal+ also commercializes TV channels to Parabole Maurice (the CINE+OCS channels and the beIN Sports France channels) and to Mauritius Telecom (the CINE+OCS channels).

10. Furthermore, Canal+ also has a wholly owned subsidiary called Canal+ Contact incorporated in Mauritius, whose sole activity is managing incoming and outgoing calls from subscribers of other Canal+ subsidiaries operating in French Overseas territories and New Caledonia. This subsidiary functions solely as an administrative back office exclusively for Canal+ and does not provide any goods or services to the public in Mauritius, nor is it connected with MC Vision.

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[2] On 16 December 2024, CANAL+ was admitted to the Main Market of the London Stock Exchange following the approval of the separation of Canal+ from Vivendi by the Combined General Shareholders Meeting of Vivendi on 9 December 2024 (see here: https://www.londonstockexchange.com/discover/news-and-insights/london-stock-exchange-welcomes-canal-main-market)

[3] On 9 December 2024, the Combined General Shareholders Meeting of Vivendi approved by more than 97.5% of the votes the separation from Vivendi of Canal+, Havas and Louis Hachette Group, see: https://www.vivendi.com/en/press-release/vivendis-shareholders-meeting-approves-the-spin-off-project-by-more-than-97-5/).

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11. The parties submitted that, within the Common Market, Vivendi operates in Comoros, Burundi, DRC, Djibouti, Egypt, Kenya, Ethiopia, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Tunisia, Uganda, and Zambia.

MC Vision (the "target")

12. The parties submitted that MC Vision, incorporated in Mauritius, operates in the downstream Pay-Tv (Direct-To-Home or "DTH") market, holding a Subscription Television Broadcasting License. MC Vision acquires broadcast rights from Canal+, Mauritius Broadcasting Corporation, and other providers.

13. The parties submitted that Canal+ has historically partnered with MC Vision in this market. Over 50% of its channels are available through other Pay-Tv operators in Mauritius. MC Vision competes with local operators such as Mediacom Ltd and Mauritius Telecom Ltd, as well as international OTT players like Netflix and Amazon Prime Video. Within the Common Market, MC Vision operates solely in Mauritius.

Jurisdiction of the Commission

14. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

> *"Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or* the *target firm, operate in two or more Member States, shall be notifiable if:*
>
> *a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds USD 50 million; and*
>
> *b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds USD 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State".*

15. The undertakings concerned have operations in two or more Member States. The undertakings concerned derived a turnover of more than the threshold of USD 50 million in the Common Market and they each derived a turnover of more than USD 10 million in the Common Market. In addition, the parties do not hold more than two-thirds of their respective aggregate turnover or asset value in one and the same Member State. The Commission was thus satisfied that the transaction constitutes a notifiable transaction within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

16. The parties submitted that the proposed transaction entails Canal+ will acquire an additional 37.94% of MC Vision shares from EM Vision Ltd (27.94%) and Mauritius Broadcasting Corporation (10%), adding to its existing 23.82% stake.

17. This acquisition will increase Canal+'s ownership to 61.77%, giving it a controlling interest in MC Vision, it being noted that Canal+ Réunion, its wholly owned subsidiary, will continue to hold 13.23% of MC Vision's shares.

Competition Analysis

Consideration of the Relevant Markets

Relevant Product Market

18. Paragraph 7 of the Commission's Guidelines on Market Definition states that a *"**relevant product market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer/customer, by reason of the products' characteristics, their prices and their intended use**"*.

19. The CID noted that Canal+ operates in both the upstream and downstream Pay-Tv markets. It is primarily active in the production of pay-television channels in the upstream segment which involves production and selling TV channels to Pay-Tv operators, while the downstream segment focuses on distributing Pay-Tv services to consumers and hotels. Canal+ operates both upstream and downstream in the DRC, Rwanda, Burundi, and Djibouti; in the upstream market in Ethiopia, Kenya, Mauritius, Uganda, Zambia, Seychelles, and Sudan; and in the downstream in Comoros and Madagascar. The CID further noted that MC Vision operates in the downstream Pay-Tv market in Mauritius.

20. The proposed transaction raises horizontal overlap given both parties are engaged in the downstream market for Pay-Tv and a vertical overlap given that the acquirer is in the upstream Pay-Tv market while the target is in the downstream Pay-Tv market, thus the assessment of the relevant product markets focuses on this area.

The production and distribution of Pay-Tv channels

21. The acquirer, Canal+, operates in both the upstream and downstream Pay-Tv markets. In the upstream market, Canal+ is engaged in the production, aggregation, and wholesale distribution of TV channels, including premium, thematic, and localized content. In the downstream market, Canal+ distributes Pay-Tv services directly to end-users, such as individual consumers and institutional clients like hotels. In contrast, the target, MC Vision, operates solely in the downstream Pay-Tv market, focusing on the retail distribution of these services.

22. Canal+'s upstream activities involve licensing agreements with downstream Pay-Tv operators, including MC Vision, to supply its TV channels. These licensing

arrangements allow operators to integrate Canal+ channels into their offerings for end-users.

23. The product market in this case can be segmented into two categories, namely the upstream and downstream Pay-Tv markets. The upstream Pay-Tv market focuses on the creation, packaging, and wholesale supply of TV channels to Pay-Tv operators. This segment is characterized by the licensing of exclusive or non-exclusive rights to distribute premium, thematic, or localized content, which forms the foundation for downstream distribution.

24. On the other hand, the downstream Pay-Tv market centers on the retail distribution of Pay-Tv services directly to consumers. This market includes subscription-based and prepaid models offering bundled TV channels, Video-on-Demand, and Over-The-Top (OTT) services. OTT services, which deliver video, audio, and other media over the internet, bypass traditional distribution channels like cable, satellite, or broadcast television, adding flexibility and convenience for end-users. Competitive dynamics in the downstream market are driven by pricing strategies, accessibility, and content variety tailored to end consumer preferences. The downstream Pay-Tv market directly interfaces with end-users.

25. Based on this analysis, and without prejudice to its approach in similar future cases, the CID identified the relevant product markets as

   a. ***the upstream market for the production and wholesale distribution of Pay-Tv channels; and***

   b. ***the downstream market for the retail distribution of Pay-Tv services***.

Relevant Geographic Market

26. The Commission's Guidelines on Market Definition define the relevant geographic market as comprising *"**...the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous, and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those areas**"*[4].

27. The geographic market definitions for Pay-Tv differ based on the nature of operations in the upstream and downstream segments. From the perspective of the upstream Pay-Tv market, the CID observed that the market is regional, extending across the COMESA region. This is because the production and wholesale distribution of TV channels are often tailored to meet cultural, linguistic, and other consumer preferences that vary across different regions. While the CID acknowledged that there could be further sub-markets, particularly distinguishing between Francophone and Anglophone countries due to language and cultural differences, such segmentation is unnecessary for the current transaction since it is not likely to raise

[4] Paragraph 8

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competition concerns. As such, the scope of the upstream market is defined as the provision of Pay-Tv channels within the Common Market.

28. The CID observed that the downstream market, which pertains to the retail distribution of Pay-Tv services, was national in scope. This is due to the presence of distinct regulatory regimes, language barriers, and local consumer preferences that vary significantly across countries. Cultural factors and specific conditions of competition further reinforce the national boundaries of this market. The CID noted that downstream broadcasters, including MC Vision, often seek content from Canal+ that is localized to resonate with their respective local audiences, where the latter provides by tailoring its content or creating localized versions of its channels. Moreover, broadcasters are required to comply with local regulations, including content quotas, censorship rules, and licensing requirements, which further contribute to the national nature of the retail distribution of Pay-Tv services.

29. Based on these considerations, and without prejudice to the CID's approach in similar future cases, the CID considered that the relevant geographic markets as the upstream market for the production and wholesale distribution of Pay-Tv channels in the Common Market, and the downstream market for the retail distribution of Pay-Tv services in the DRC, Rwanda, Burundi, Djibouti, Comoros, and Madagascar.

Conclusion on Relevant Markets

30. Based on the foregoing assessment, and without prejudice to its approach in similar future cases, the CID defined the relevant markets as the:

a. ***upstream market for the production and wholesale distribution of Pay-Tv channels in the Common Market; and***

b. ***downstream market for the retail distribution of Pay-Tv services in the national markets in the DRC, Rwanda, Burundi, Djibouti, Comoros, and Madagascar.***

Market Shares and Concentration

31. The parties submitted Canal+ and its competitors estimated market shares in the downstream market for the retail distribution of Pay-Tv channels as presented in Table 1 below.

Table 1: Estimated market shares of Canal+ and its competitors in the downstream market for retail distribution of Pay-Tv channels[5]

Member State	*Competitors*	*Estimated market share%*
DRC	CANAL+ RDC	[20 – 40]
	StarTimes	[10 – 30]
	TELENUM RDC	[10 – 30]
	Netflix	[0 – 20]

[5] Confidentiality of information claimed by the parties.

	Solar Energy TV DRC	[0 – 20]
	BleuSat	[0 – 20]
	Multichoice (DSTv + Showmax)	[0 – 20]
	MediaSat	[0 – 20]
	Trace Play	[0 – 20]
	KIWI	[0 – 20]
	Molotov	[0 – 20]
	Total	**100**
Madagascar	CANAL+ MADAGASCAR	[60 – 80]
	StarTimes	[0 – 20]
	Parabole / beIN Sport	[0 – 20]
	Multichoice (DSTv + Showmax)	[0 – 20]
	Blueline TV	[0 – 20]
	Telma TV	[0 – 20]
	Netflix	[0 – 20]
	Others	[0 – 20]
	Total	**100**
Rwanda	CANAL+ RWANDA	[60 – 80]
	Multichoice (DSTv + Showmax)	[10 – 30]
	StarTimes	[0 – 20]
	Y'ello TV (MTN)	[0 – 20]
	iROKOtv	[0 – 20]
	Azam TV	[0 – 20]
	Total	**100**
Burundi	CANAL+	[40 – 60]
	StarTimes	[20 – 40]
	Multichoice (DSTv + Showmax)	[0 – 20]
	Azam TV	[0 – 20]
	Total	**100**
Comoros	CANAL+ REUNION	[80 – 100]
	Comores Telecom	[0 – 20]
	total	**100**
Djibouti	BeIN Sports	[40 – 50]
	DStv	[20 – 40]
	OSN+	[0 – 20]
	CANAL+	[0 – 20]
	Total	**100**

32. From Table 1, the CID observed that the downstream market for the retail distribution of Pay-Tv channels in the DRC appears moderately concentrated, with Canal+ RDC holding the largest market share at [20 – 40]%. This establishes Canal+ as the market leader, significantly ahead of its closest competitors, StarTimes [20 – 40]% and TELENUM RDC [0 – 20]%. Together, these three players account for over [80 – 100]% of the market, indicating a high level of concentration and limited competition among the top players. The remainder of the market is fragmented among smaller

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players such as Netflix [0 – 20]%, Solar Energy TV DRC [0 – 20]%, and Multichoice (DStv + Showmax) [0 – 20]%, among others.

33. With respect to the market in Madagascar, it is observed from Table 1 that the market for the retail distribution of Pay-Tv channels is highly concentrated, with Canal+ Madagascar holding a dominant [60 – 80]% market share. The next closest competitor, StarTimes, has only [0 – 20]% of the market, while other players such as Parabole/beIN Sport [0 – 20]%, Multichoice [0 – 20]%, Blueline TV [0 – 20]%, Telma TV [0 – 20]%, and Netflix [0 – 20]% each hold minimal shares.

34. The CID further observed from Table 1 in respect of the retail distribution of Pay-Tv channels in Rwanda, that Canal+ Rwanda holds a dominant position with a [40 – 60]% market share. Further, Multichoice (DSTv + Showmax), with [0 – 20]% market share, and StarTimes follows with [0 – 20]% are the other closest competitors. These three players dominate the market, collectively controlling over [80 – 100]% of the retail Pay-Tv market. Smaller players, such as Y'ello TV (MTN) with [0 – 20]%, iROKOtv [0 – 20]%, and Azam TV [0 – 20]%, each hold much smaller shares.

35. Based on the market share estimates for the retail distribution of Pay-Tv channels in Burundi, Canal+ holds a dominant [40 – 60]% market share, suggesting a strong market presence. StarTimes follows with a significant [20 - 40]%, making it the closest competitor but still well behind Canal+ in terms of market share. The remaining competitors, Multichoice (DSTv + Showmax) with [0 – 20]% and Azam TV with [0 – 20]%, are smaller players, collectively controlling less than [0 – 20]% of the market. This market structure indicates a relatively high concentration, with Canal+ and StarTimes jointly holding a dominant 87.3% share of the market.

36. In Comoros, Canal+ Reunion holds a commanding position with [80 – 100]% of the market share, indicating a near-monopoly in the retail distribution of Pay-TV channels. This dominant position suggests that Canal+ holds substantial market power, the smaller player, Comores Telecom, which holds just [0 – 20]%, indicating that the market is highly concentrated.

37. It is further observed in Djibouti that Canal+ and OSN+ each hold a smaller [0 – 20]% share while BeIN Sports has a dominant share with [40 – 60] % market share, the presence of other players, particularly DStv, means the market is less concentrated than in Comoros. This market exhibits more competition, as the combined share of BeIN Sports and DStv [80 – 100] % still leaves some room for OSN+ and Canal+ to exert influence.

38. The CID noted that Canal+ is the market leader both in the DRC, Rwanda, Burundi, Comoros, and Madagascar, except in Djibouti where BeIN Sports is the dominant player in the downstream market for the retail distribution of Pay-Tv channels. The CID, however, noted that the existing market structure will not change post-merger since the target does not have presence in these Member States.

39. The proposed transaction will not therefore result in any accretion of market shares as that target does not operate in the relevant geographic markets identified. The existing competitive landscape is therefore likely to continue post-merger.

Consideration of Third-Party Views

40. In arriving at its determination, the CID also considered submissions from the national competition authorities of Egypt, Ethiopia, DRC, Kenya, Madagascar, Malawi, and Zambia which confirmed the absence of competition and public interest concerns.

Determination

41. The CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor will it be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

42. The CID, therefore, approved the transaction. The approval does not apply to the Mauritian market. In accordance with the referral granted by the Commission, the Competition Commission of Mauritius shall issue its decision in relation to aspects of the merger relating to the Mauritian market.

43. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 20th day of December 2024

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma **Commissioner Vipin Naugah**