

Portugal looks to call time on football broadcast monopoly

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A football match in Portugal (Credit: Crystian Cruz, Flickr)

Controlinveste Media, one of Portugal's largest media groups, has agreed behavioural commitments with Portugal's Competition Authority that will restrict how it renews ownership of domestic football broadcast rights.

Controlinveste Media, which rebranded as Global Media Group earlier this year, owns the broadcast rights to all Portugal's football clubs in the country's premier and second divisions, with the exception of reigning champions Benfica. It sells these rights to Sport TV, the country's main television sport channel and a subsidiary it holds a 50 per cent share of, who in turn sells the content to other networks.

According to a statement released by the authority [yesterday](#), the media giant has agreed to change its standard contractual terms, withdrawing any rights of first refusal, while limiting its exclusivity rights to a period of three years. It has also granted clubs the right to terminate existing contracts governing their broadcast rights, without a penalty or compensation, at the end of the 2015/2016 season.

António Ferreira Gomes, president of the authority, said the commitments have addressed the enforcer's concerns by eliminating barriers to market entry that blocked the expansion of actual or potential competitors.

"These commitments will increase the availability of media rights and stadium advertising concerning the Portuguese premier and second football leagues, and improve the prospects of competition in providing sports broadcasting services to consumers," he added.

The authority received a complaint from the Professional Football Association in October 2012 alleging that Controlinveste Media had abused its dominant market position. It started an investigation in April 2013, voicing concerns that the contractual terms Controlinveste Media agreed with Portugal's football clubs risked foreclosure in the market.

The enforcer subsequently agreed commitments with Controlinveste Media, prior to the issuance of a statement of objections. If the commitments had not been agreed, the authority would have likely pursued an in-depth investigation, which may have resulted in sanctions if evidence of an infringement had been established.

Controlinveste Media is legally bound by the commitments, which will be closely monitored by the authority.

Miguel Pena Machete, at Serra Lopes Cortes Martins in Lisbon, who acts for Controlinveste Media, says the broadcaster collaborated with the enforcer to avoid a potential in-depth investigation and to protect competition within the market.

"It remains unclear what impact the commitments will have on the consumer, particularly whether it will affect quality or the price of premium sport channels," he says. "My provisional view is that it will not necessarily improve either."

Representing the Professional Football Association, who brought the initial complaint, Carlos Pinto Correia at Linklaters in Lisbon, says it has been difficult up until now for

challengers to enter the market, as Controlinveste Media owned blanket broadcast rights, which expired at individually staggered intervals.

This made it impossible for competitors to establish a foothold in the market, as they could only compete for broadcast rights for a handful of separate clubs at a time.

“Now that all of the broadcast rights are limited to a three-year term, starting and finishing at the same time, every agreement with every major club will expire in 2018, bar one, thought to belong to FC Porto,” Correia says. “This will open up the current market concentration.”

He adds that this is the first time the authority has used new powers allowing it to negotiate commitments before issuing a statement of objections.

Nuno Ruiz, at Vieira de Almeida in Lisbon, welcomes the decision as a good first step, but questions whether the limited exclusivity rights will discourage competitors from entering the market.

“It is unlikely that a rival operator would invest in entering the market, if the broadcast rights they secure are limited by a three-year exclusivity period,” he says. “It will be interesting to see if the authority applies the same rules to new entrants, or just the incumbent, Controlinveste Media.”

The authority previously fined Controlinveste Media subsidiary Sport TV in 2013 for abusing its dominant market position with discriminatory pricing.

Controlinveste Media did not respond to requests for comment before press time.

Counsel to Controlinveste Media

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Partner Miguel Pena Machete in Lisbon

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