Bundling – conclusion of antitrust proceedings

* **The President of UOKiK concluded proceedings concerning the practices of Telewizja Polsat and companies from the Discovery Group.**
* **An in-depth analysis showed that the suspected actions of broadcasters do not impact the contents of bundles offered to subscribers.**
* **This is confirmed by the results of an in-depth study carried out by the President of UOKiK during the proceedings.**

**[Warsaw, 29 October 2024]** Consumers using subscription TV services purchase them from operators in bundles comprised of many different channels. Operators purchase channels in bundles as well. The President of UOKiK analysed whether the terms of sale (channel licensing) on a wholesale level, i.e. in relations between the broadcaster and the operator, could have impeded competition.

**Antitrust proceedings**

In April 2021, the President of the Competition Authority initiated antitrust proceedings **against Telewizja Polsat and four companies from the Discovery Group –** Discovery Communications Europe, Discovery Communications Benelux, Discovery Polska and Eurosport. These enterprises distribute TV channels produced by themselves or by companies from their capital groups on the wholesale market. As a result of the conducted analysis, the President of the Competition Authority reached the conclusion that there are insufficient grounds to establish a breach of law and discontinued these proceedings.

When initiating the antitrust proceedings, the President of the Competition Authority suspected that the actions of Polsat and companies from the Discovery Group could represent the abuse of a dominant position. Reservations were raised by the way that channels were sold to TV operators: in the case of Telewizja Polsat – in a bundle comprised of 28 TV channels, whereas in the case of companies from the Discovery Group – in bundles comprised of at least 6 channels. TV operators had to include a certain number of purchased channels in the so-called basic bundles, i.e. bundles offered to and targeted at the broadest possible range of retail consumers. In turn, this could have meant that consumers would also not have the option of purchasing a smaller bundle from a TV operator and, therefore, could have been forced to purchase a larger bundle, even if they were not interested in certain channels.

In this context, the President of the Competition Authority suspected that Telewizja Polsat and companies from the Discovery Group could have abused their market position, forcing TV operators to create excessively oversized bundles, thus impeding them from putting together thematic and premium bundles. An operator bound by an agreement with these broadcasters might not have had the freedom to select channels for bundles offered to a smaller group of consumers compared to basic bundles. The Competition Authority received many complaints from operators, trade associations and consumers regarding the limited freedom to develop their own channel bundles or to select TV channels.

**Conclusions drawn from proceedings**

“In the course of the proceedings, we have conducted a sector inquiry on a broad spectrum, as part of which we have sent out more than 500 detailed surveys to TV operators. The information collected and analysed in-depth did not confirm the suspicions that the practices of Telewizja Polsat and companies from the Discovery Group represent the abuse of their market position to the disadvantage of subscription TV operators”, said Tomasz Chróstny, President of UOKiK.

The obtained data showed that if operators gained full freedom to place channels in any bundles at their own discretion, the vast majority of them would not have moved any of the broadcast channels of Telewizja Polsat and companies from the Discovery Group to a different bundle than the one in which it is currently included. Furthermore, the operators indicated that the offers they received from Telewizja Polsat and companies from the Discovery Group are acceptable to them and that the available wholesale bundles of channels are sufficiently tailored to their needs.

Evidence collected during the proceedings indicated that should the obligation to include channels in bundles specified by broadcasters would not, in practice, affect the contents of bundles offered to subscribers. In addition, transferring channels from basic bundles with a large viewership to thematic or premium bundles, purchased by a smaller number of subscribers, could entail a drop in the viewership of these channels, which in turn would result in lower revenue generated by broadcasters from advertisements displayed on these channels. In an effort to compensate for the loss in advertising revenue, broadcasters could raise the rates charged from TV operators. An increase in prices on the market would be detrimental to both TV operators purchasing bundles from broadcasters and consumers as target customers.

Nevertheless, it is necessary to mention that in the period under analysis, consumers have gained a lot more options to freely choose the content they want to watch. This is due to growth in the popularity of VOD platforms (streaming services), which enable viewers to watch any programmes that suit their preferences at the time and place of their choosing. It results in a progressive change in consumer habits, as consumers more frequently choose content on-demand from among the range of programmes and channels offered by a wide range of service providers. This was also taken into account in the analysis conducted in the course of the proceedings.

As [data provided by the Polish National Broadcasting Council](https://www.gov.pl/attachment/95c491e2-eec5-48c8-a25a-7987d2d7f71b) indicates, interest in TV has also been on the decline. Although traditional TV still remains a relevant model of media consumption, it is estimated that the relevance of VOD services will continue to grow, thus providing consumers with an option to more easily choose the audiovisual content they want to consume.

Taking all of the aforementioned aspects and the collected evidence into consideration, the President of the Competition Authority decided to discontinue the antitrust proceedings against these entities.

**Inform the Authority**

We remind you that UOKiK operates a programme to acquire information from anonymous whistleblowers. Do you wish to inform UOKiK about competition restricting practices? Visit <https://uokik.whiblo.pl/> or scan the QR code below and use the simple form. The system we use guarantees full anonymity, including from UOKiK.