**Court of Appeals rejects injunction against remedies imposed by CNDC in Disney/Fox merger case**

The Federal Civil and Commercial Court of Appeals rejected the suit brought by Disney in the context of the merger between The Walt Disney Company and Twenty-First Century Fox, INC. The firm was attempting to obtain the issuance of a precautionary measure against specific remedies recommended by the CNDC.

May 27th, 2022

On May 20th, 2022, Chamber I of the Federal Civil and Commercial National Court of Appeals unanimously decided to dismiss The Walt Disney Company's (Disney) request for the issuance of an injunction aimed to suspend the effects of different behavioural obligations advised by CNDC in regard with the firm's merger with Twenty-First Century Fox, Inc.

The sentence confirms the full validity of all the behavioural conditions imposed by the Secretariat of Domestic Trade of the Ministry of Productive Development by Resolution SCI No. 11/2022, dated November 17th, 2021, based on a CNDC opinion issued in the framework of the merger review procedure.

Specifically, Disney aimed to obtain the suspension of the obligation to guarantee, for five years, that the cost of the premium sports signals it markets does not exceed the income cable operators obtain from the sale of said content; the obligation not to broadcast, also for five years, those sporting events that were assigned to the MediaPro group under the structural remedy imposed by SCI Resolution No. 11/2022; and, finally, the obligation to appoint a third party as Monitoring Agent, in charge of auditing and supervising the degree of compliance with the obligations imposed by SCI Resolution No. 11/2022.

In its ruling, the Court pointed out that Disney failed to prove the likelihood of success on the merits—one of the essential requirements for issuing an injunction—that would justify suspending the effects of any of the conditions outlined. Consequently, they remain fully operational for the period stipulated in SCI Resolution No. 11/2022.

The CNDC will continue monitoring compliance with the behavioural obligations established upon Disney in the commercialization of signals in Argentina. Consider that, in addition to those analysed and ratified by the Court in its ruling, Resolution SCI No. 11/2022 likewise imposed conditions on marketing and bundling practices aimed at minimizing the portfolio effects arising from the merger even afterwards the divestment has been completed.

The remedies imposed by the CNDC benefit more than 8 million households subscribed to the pay television service in Argentina.

**O Tribunal de Recurso rejeitou uma injunção contra o condicionamento imposto pela CNDC à fusão da Disney/Fox.**

A Câmara de Recursos rejeitou a exigência da Disney no âmbito da fusão "The Walt Disney Company e Twenty-First Century Fox, INC". A empresa pretendia uma medida provisória contra algumas condições impostas pelo CNDC.

27 de maio de 2022

A Câmara de Recursos rejeitou, no dia 20 de maio, a exigência da The Disney Company.

A decisão confirma a plena validade de todas as condições de comportamento impostas pelo Secretariado do Comércio Interno do Ministério do Desenvolvimento Produtivo através da Resolução SIC Nº 11/2022, de 17 de novembro de 2021, com base num parecer da CNDC emitido no âmbito da referida operação de concentração económica.

Na sua decisão, a Câmara declarou que a Disney não conseguiu provar a probabilidade do direito - um dos requisitos essenciais para a emissão de uma injunção provisória - que justificaria a suspensão dos efeitos de qualquer das condições acima mencionadas. Consequentemente, permanecem plenamente operacionais durante o período estipulado na Resolução SIC Nº 11/2022.

A CNDC continuará a efetuar um controlo exaustivo do cumprimento dos compromissos comportamentais estabelecidos na Disney em matéria de comercialização de sinais na Argentina. A este respeito, é de salientar que, além disso, os compromissos que estabelecem requisitos sobre as condições de comercialização e embalagem que minimizam os efeitos de carteira - que poderiam ser gerados pela operação mesmo após a conclusão do desinvestimento - continuam também em vigor e por um período de cinco anos.

Os compromissos estruturais e comportamentais impostos pela CNDC beneficiam mais de 8 milhões de famílias que subscrevem serviços de televisão paga na Argentina.

**La Cour d'appel a rejeté une injonction contre le conditionnement imposé par la CNDC à la fusion Disney/Fox.**

La Cour d'appel fédérale pour les affaires civiles et commerciales a rejeté dans son intégralité la plainte déposée par Disney dans le cadre de la fusion entre The Walt Disney Company et Twenty-First Century Fox, INC. L'entreprise demandait une injonction contre certaines conditions recommandées par le CNDC.

27 mai 2022

Le 20 mai, la Cour d’appel fédérale a rejeté la plainte déposée par Disney.

Le jugement confirme la pleine validité de toutes les conditions comportementales imposées par le Secrétariat du Commerce Intérieur du Ministère du Développement Productif par la résolution SCI n° 11/2022, du 17 novembre 2021, sur la base d'un avis de la CNDC émis dans le cadre de l'opération de concentration économique susmentionnée.

Dans sa décision, la chambre a déclaré que Disney n'a pas réussi à prouver la probabilité du droit - l'une des exigences essentielles pour l'émission d'une injonction provisoire - qui justifierait la suspension des effets de l'une des conditions susmentionnées. Par conséquent, ils restent pleinement opérationnels pour la période stipulée dans la résolution SCI N° 11/2022.

La CNDC continuera à effectuer un contrôle exhaustif du respect des engagements comportementaux établis sur Disney dans la commercialisation des signaux en Argentine. À cet égard, il convient de souligner que, de plus, les engagements qui établissent des exigences sur les conditions de commercialisation et de conditionnement qui minimisent les effets de portefeuille -qui pourraient être générés par l'opération même après la réalisation de la cession- sont également toujours en vigueur et ce, pour une période de cinq ans.

Les engagements structurels et comportementaux imposés par la CNDC bénéficient à plus de 8 millions de foyers abonnés à des services de télévision payante en Argentine.