Information notice  
(published at the request of Consob, pursuant to art. 114 CLF)

TIM / Canal+ JV

This information notice on the joint venture between TIM and Canal+ (the Transaction), detailed in the press releases issued on 4 August, 28 September, 20 October and 5 December 2017, is published at the request of Consob, pursuant to art. 114 of the CLF.

Introduction

After an initial announcement on 4 August 2017 of the launch of a project to create a joint venture between TIM and the Canal+ Group, as “a further indication of the desire to establish, also in the context of the existing strategic plan, a form of coordination between the two corporate groups in the multimedia sector [Ed: TIM and Vivendi]”, the Company announced on 28 September 2017 that the board had approved the "principle of the creation of a joint venture with Canal+, intended to enable a major acceleration of the plans for telecoms-media convergence" to be regulated by “terms and conditions under negotiation, starting from a non-binding terms sheet already signed by the parties”.

It was explained in the press release that the transaction constitutes “a transaction with a related party (since Canal+ is a subsidiary of Vivendi S.A., which Consob has qualified as the de facto controller of TIM)” and that the Control and Risk Committee had “by a majority vote, approved it, with reference to the present status of the initiative (and has reserved the right to review it again as the negotiations proceed), based on the assumption that it is a transaction of lesser importance, pursuant to the applicable Consob Regulation”. The press release added that the Board of Directors would “discuss it again for its conclusive approval, in accordance with the appropriate procedure and therefore also after having obtained a further opinion on the final terms of the agreement as soon as they have been defined in the negotiations”.

The Board of Directors actually discussed the topic again on 20 October 2017, approving a binding term sheet and granting powers for its implementation, by negotiation, finalisation and entering into the consequent definitive contracts. The following announcement was made:

- that the object of the joint venture is to “design and create the offer of premium video content that TIM will offer its customers, to accelerate the development of fibre connectivity”;
- that the allocation of the shares is 60% for TIM and 40% for Canal+;
- that the board of directors of the joint venture will be composed of 5 members, 3 of whom from TIM, including the Chief Executive Officer.

It was also confirmed that the operation qualifies as a transaction of lesser importance with a related party, according to the parameters set out in the corresponding Consob Regulation and that, as such, it had been approved by the Control and Risk Committee, by a majority vote, with the motivated dissenting votes of two directors.

Finally, on 5 December 2017 “the Board of Directors returned to discussing the subject of the Joint Venture with Canal+, and by a majority vote approved it on the basis of an amendment made to the agreements with a view to clarifying the duration of the commitments, thus confirming the definition of the initiative as a related party transaction of minor significance (sic) based on the parameters established by Consob...” which the Board of Statutory Auditors has challenged. The Board thus had an opportunity to reiterate by a majority vote the
interest, convenience and appropriateness of the conditions of the agreement, summarising the reasons behind it in the context of the strategic plan being defined” (verbatim from the press release of the same date).

**Description of the joint venture**

While the definitive agreements are still being negotiated, based on the binding term sheet in force between the parties, the object of the Transaction is the creation of a joint venture that combines the expertise and resources of TIM and Canal+ so as to create a solid and self-financing enterprise, active in the content sector in Italy. The vehicle for the creation of the project is the wholly owned TIM subsidiary called TIMVision S.r.l. (with registered office in Rome at Corso d’Italia 41, share capital of 50,000 euros, registered in the Rome Business Register, Tax Code and VAT number 14114241004), subject to its transformation into a company limited by shares.

The mission of the joint venture is the design, creation and packaging of an offer of audiovisual content, to be marketed only by TIM in triple and quadruple play arrangements, and it will be delivered through the purchase of rights to existing content, commissioning new productions, editing linear and non-linear services and content, and developing related services. The content will include films, entertainment and sport and, with the agreement of both parties, the retransmission of free-to-air television channels. The purchase by TIM of the product of the joint venture will occur on a wholesale basis, with subsequent retail distribution to its customers.

The term sheet provides for the assumption of undertakings by TIM and Canal+, in terms of pro quota and commercial financial relationships, for a duration of three years, based on a business plan for 2018-2020 that is annexed to the binding term sheet and destined to be adopted by the board of directors of the joint venture, once constituted. At the end of the third year of the joint venture, there is an obligation for the parties to review in good faith the execution status of the business plan and any amendments to it: if an agreement is not reached, the decision-making deadlock mechanisms described herein shall apply, with the consequent right for TIM, inter alia, to exercise a call option on the entire shareholding of Canal+.

The undertakings, mechanisms and rights just mentioned and the further agreements contained in the term sheet will be incorporated in a contractual agreement, with a duration of ten years, and in the bylaws of TIM Vision.

**Governance of the joint venture**

The capital of the vehicle will initially be 50 million euros, divided between TIM and Canal+ according to their respective shareholdings of 60% and 40% (subject to a three-year lock-up), but it will be open to the entry of new shareholders with a stable presence in the Italian media market, that could contribute to the growth of the joint venture, particularly in terms of purchasing content. In any case, TIM will retain a shareholding of no less than 51% of its capital.

Scalar governance rights in proportion to the stake held are attributed to the minority shareholder:

- from a shareholding of 20%, and up to 40% of the capital, Canal+ shall have the right to designate one of the five directors, and will have a right of veto in board meetings over, inter alia (i) approval of the annual budget and business plan, (ii) the acquisition of the content or the commission of productions outside of the budget forecasts and for amounts exceeding 10 million euros, (iii) the request for funding by shareholders other than the undertakings contemplated in the business plan, (iv) the entry of new shareholders, (v) the change in the dividend policy, (vi) the issue of bonds, for a total of over 5 million euros;
- starting from 40%, it will appoint 2 of the 5 directors, and the vote of at least one of them will also be required for (i) purchases of content worth more than 20 million euros or the commissioning of productions worth more than 10 million euros (or such higher sums as are defined in the budget), (ii) the purchase or disposal of assets for amounts exceeding 20 million euros, (iii) the issuing of proxies or the creation of internal committees of the board, (iv) the appointment, remuneration and powers of the CEO, CFO and the Head of content;
Said managerial figures will be proposed to the board by TIM (CEO and CFO) and by Canal+ (Head of content) and will be answerable to the full board for the ordinary management of the venture, the preparation and the implementation of the business plan and budget, and for reports on operations.

At shareholders’ meetings, the votes in favour of both shareholders will be required for amendments to the bylaws, for the dissolution and winding up of the company, for mergers and demergers and to exercise corporate responsibility.

If a resolution cannot be passed on matters which require qualified majorities, as set out above, due to (i) non-achievement of the quorum in two subsequent meetings, due to the absence of Canal+ or directors designated by it, or (ii) the dissenting vote Canal+ or directors designated by it, TIM may declare deadlock and ask for a consultation between the parties, to identify, in good faith, a solution that is satisfactory to both. If this is reached, the parties are bound to procure its approval at a meeting of the body where deadlock occurred. If an agreement is not reached the deadlock becomes definitive, without prejudice to the possibility that the whole approval process may be repeated.

In case of definitive deadlock on the approval of the budget or of the business plan (including the review of the same business plan at the end of the three-year period), or the occurrence of three deadlocks not amicably overcome, with the consequent definitive impossibility of passing a resolution in the matter reserved, TIM will hold a call option on the entire shareholding of Canal+ and on all the loans provided to the joint venture by the latter, at a price equal to the fair value of the shareholding (without minority discount), plus the face value of the loans, plus the interest accrued until the moment the option is exercised.

In case of definitive deadlock on the approval of the budget or of the business plan (including the review of the same business plan at the end of the three-year period), or the occurrence of three deadlocks not amicably overcome, with the consequent definitive impossibility of passing a resolution in the matter reserved, TIM will hold a call option on the entire shareholding of Canal+ and on all the loans provided to the joint venture by the latter, at a price equal to the fair value of the shareholding (without minority discount), plus the face value of the loans, plus the interest accrued until the moment the option is exercised.

If there should be a change of control of TIM (understood as the acquisition of control by subjects other than Vivendi and its affiliates), TIM will inform Canal+ without delay, and will have a call option on the entire shareholding and all funding provided to the joint venture by the latter. In the event that TIM fails to exercise its call option, Canal+ will hold a symmetrical put option. The transfer price:

- in the first three years (until 31 December 2020) will be the higher of (i) the total initial contribution in equity, the financing commitment included in the initial contractual business plan and any further transfers made by Canal+ to the joint venture, and (ii) the fair market value of the stake held (calculated without applying any minority discount), plus the face value of the loans, plus the interest accrued until the moment the option is exercised;
- from 1 January 2021 will be equal to the fair market value of the stake held (calculated without applying any minority discount), plus the face value of the loans, plus the interest accrued until the moment the option is exercised.

**Operation of the joint venture**

Before the launch of the commercial offers of the joint venture, the Parties will evaluate in good faith the transfer by TIM of the existing agreements with third parties, relating to licenses/sublicenses, or to the acquisition or production of audiovisual content from TIM to the joint venture, at standard market conditions. TIM and Canal+ shall also in good faith consider the use of the MyCanal platform, owned by Canal+, as the OTT platform of the joint venture, at the economic conditions predefined in the term sheet. Finally, the parties have agreed that the joint venture will be able to use the personnel of TIM and Canal+ needed to perform the activities devolved to said joint venture by secondment or transfer of their employment contracts.

The trade name of the audiovisual services created by the joint venture will be Canal+ or other related name, as defined by the board. Nevertheless, TIM shall have the right to offer its customers audiovisual services in continuity, without prejudice to its undertaking to discuss the choice of most appropriate brand with Canal+.

TIM will distribute packages of channels and services created by the joint venture, acquiring them in wholesale form and selling them in "bundles" or individually to its customers, via IPTV OTT, mobile services or otherwise. The content will be sold to TIM exclusively for Italy and will be marketed by TIM as part of its offer. Vice versa, the joint venture will be the exclusive channel for acquiring and producing content for TIM, without prejudice to
existing relations; TIM will only be able to take such action directly if the joint venture should refuse to proceed with an acquisition/production or collaboration with third parties. Studiocanal will in turn have first right to the international distribution of any rights the joint venture might have in countries other than Italy, while Canal+ will be committed to use its best efforts to ensure that the joint venture has “first look” right to the content produced or distributed by Studiocanal in Italy, and to acquire it at market conditions.

It remains agreed that, in case of transfers of shares consequent on the exercising of the call/put options described above or otherwise, TIM shall retain (i) the right to use, at market conditions, the OTT platform and the joint venture’s audiovisual services brand until the date of expiry of the corresponding agreements and in any event for at least three years; (ii) the right to distribute the content of the joint venture until the date of expiry of the contract.

In the first three years of the joint venture’s operations (timescale of the economic undertakings agreed between the parties),

- until it achieves an average fibre customer base of 5 million active units, TIM will pay the joint venture (i) a gross fixed fee commensurate with the costs incurred for the supply of the service, (ii) a variable fee decreasing in accordance with the number of active TIM fibre customers. (iii) an additional component proportional to the number of paying customers that use TIM Vision’s service at least once a month;
- in addition to the threshold of 5 million fibre customers, TIM will pay only a variable remuneration to the joint venture, commensurate with the number of NGN customers.

**Reasons for and advantages of the joint venture**

The reasons for the Transaction were summarised by the management of the Company as follows, in a specific document, adopted by majority vote by the Control and Risk Committee in support of its favourable opinion on its approval:

- **How the initiative is in the interest of the Company:**
  - the initiative reflects the trend, which can be noted among all telcos across the world, of focusing on and converging with media companies, in order to identify new opportunities for top line growth, also to the benefit of an improved share price;
  - the joint venture is consistent with the existing company strategy (2017-2019 plan) and the one currently being drawn up (2018-2020). Its main objective is in fact to develop a full and distinctive range of content through production/co-production and the purchase of rights, benefiting from the partner’s skills and assets;
  - the joint venture with one of the world’s major Media Companies will accelerate the uptake of fibre, reduce churn and improve customer loyalty, grasping the commercial opportunity represented by the low level of penetration of pay-TV and the projected development of the broadband market in Italy;
  - the joint venture agrees to consider further partnerships with other media companies, remaining open to the entry of new partners, a circumstance that, in fact, is to be hoped for, and in this case it has been established that the agreements between the partners would be revised, also to promote the entry (of such partners), it remaining established that TIM will maintain the control;
  - the project is intended to ensure the profitability of investments already made by TIM (primarily those to secure the deployment of the ultrabroadband network in fibre), which have thus far failed to bring the expected results, ensuring a major economic and strategic gain for TIM in return for assuming the equity risk and the basic commercial risk of the initiative;
  - a TV + Telco “go2market approach”, with a selling proposition based on the try-and-buy and up-selling / cross-selling logic, will allow TIM to enrich the fibre offer, with advantages in terms of reducing churn and increasing market share (however defended) in the broadband sector, particularly in view of the prospect of new players entering the mobile and/or fixed market;

- **The advantages of the collaboration project:**
  - compared to the previous attempts made by TIM at partnership with Media Companies (which failed because direction was left to a partner that had its own market and its own technology to defend), the
joint venture with Canal+ is characterised by the circumstance that in this company the video content will become a lever that is managed by TIM (the controlling company) to promote the objectives of TIM itself;

✓ the partnership leaves room for TIM to have its own operational autonomy where the interests of TIM are not aligned with those of its partner with deadlock and exit provisions that maintain the governance of the joint venture and the capitalisation of its start-up in the hands of the Company;

✓ the joint venture represents an opportunity to grow expertise that today is not present in the TIM Group, but which the management believes is needed to defend and grow the current market position and top line of the Business;

✓ the level of investment in joint venture, over the life of the plan, is substantially in line (indeed less) than the level already forecast by the Company on a standalone basis in its own strategic planning. The initiative does not entail an inappropriate diversion towards acquiring the content of resources destined or to be destined to the development of ultrabroadband;

✓ the agreements attribute to TIM the possibility of accessing the Canal+ platform at a cost that is competitive, compared to that of similar platforms on the market, but still leaves the joint venture itself free to formulate its own assessments;

✓ the three-year business plan for the initiative (ambitious, but consistent with the precedents set by other European market operators) is attractive, showing robust value creation potential, also confirmed by the sensitivity analyses, assuming significantly lower fibre take-up rates and the development of the TIMvision customer base than the rates estimated by the parties in the negotiations;

✓ the agreements envisage the possibility that the joint venture partner would undertake the international marketing of these products made by the joint venture, thereby opening the possibility of a business line that currently is not available;

- The substantial correctness of the conditions of the agreement:

✓ the term sheet clearly outlines the essential profiles of the partnership, with particular reference to financial commitments, commercial rights, governance rights, and provisions for deadlock and exit, with balanced arrangements for relations with the other party and an approach scaled in proportion to the partner's stakes in the capital, but always respectful of TIM's interest, and leaving to TIM the operation of the company and the right to exercise a call right in the presence of situations of conflict with the other partner, especially on issues of a strategic and operational nature;

✓ the conditions of the agreement prescribe that balanced rights are to be attributed to the parties, proportional to the costs and risks assumed by each, according to terms and arrangements that are aligned with market practices in comparable operations (and this also with specific reference to the “critical” content, first and foremost the issue of the guaranteed minimum);

✓ rights of the minority shareholder:
  - these relate to the standard protections related to structural changes in the subject of the joint venture (thus the investment), for as long as the said shareholder maintains a 20% stake;
  - in relation to the management, pertain exclusively to (i) approval of the budget and plan (standard practice in any joint venture) or (ii) transactions of an extraordinary size for the industry (furthermore with a substantial loss of veto right in the event of the stake falling below the 40% threshold);

✓ the duration of the commitment is adequate, particularly in light of the option and regulations regarding exit, and the possibility of reviewing its conditions, primarily upon expiry of the three-year business plan on which the initial commitment was based;

✓ the agreement prescribes a variable fee based on the allocation of risks, functions and assets within the transaction and, with a minimum level over the coming three years (in accordance with a mechanism typically used in the sector) to support the company start-up phase and in any event at levels which are substantially consistent with the level of investment that TIM had already planned for the next three years within its own strategic plan.

The economic, equity and financial effects

Translated from the original document in Italian
The joint venture business plan was developed for three years with an extrapolation not binding on the Parties for a further three years. Revenues were defined taking account of the costs for content that - as already said - will be faced by a fixed compensation commensurate with the costs incurred for the supply of the service and by a variable compensation commensurate with average amount of fiber customers as well as to the number of paying customers that use TIM Vision’s service. Revenues deriving from the guaranteed minimum would be granted until that TIM has reached a customer base fiber average of 5 million active units, what is expected to be reached in 2021. As an example, in 2020, the fixed component guaranteed is expected to be approximately 95 million euros. From the following year, no, the payment of any fixed component guaranteed.

Joint venture operating costs are principally costs of content (of which 20% maximum’s annual budget may be purchased from Canal+) and by platforms for use of the service, personnel costs and overheads and administrative.

As for the joint venture funding, it prescribes a maximum absorption of 185 million euros; this presentation will be completion guaranteed by the shareholders and will be covered a pro quota basis by a pool of risk capital and financing shareholders (approximately 110 million euros by TIM and approximately 75 million euros by Canal+). With reference to the impacts on the consolidated results of the TIM group, it is assumed the full consolidation of a joint venture, and the consequent purpose of intercompany items.

At consolidated level, therefore, the impacts on revenues will be deriving from the increase in customers with convergent offers, characterised by a level of profitability greater and greater loyalty. At the level of the operating costs, the differential effect with respect to the current structure costs was linked to the higher investment (cash costs) on the content, balanced already in the medium term these benefits. By way of example, it should be noted that the average costs total of the entire joint venture, on an annual basis laid down in the business plan, are greater than 55 million euros with respect to the provisions, in the same period, in the business plan for TIM 2017/2019 approved on 6 February 2017. The impacts of the joint venture on the results sheets for the TIM Group are marginal. In financial terms, the break-even is expected within 4 years the launch of the initiative, with a NPV (net present value), positive.

**The investigatory and decision-making process**

The Transaction, negotiated by the management of the company, is also classified as a transaction with a related party, since the other party is Canal+ International S.A.S., which is controlled indirectly by Vivendi, the principal shareholder and de facto controller of TIM (in the argument adopted by Consob), as well as the entity that exercises direction and coordination. Consequently, a decision was made to apply the safeguards prescribed in the company’s Procedure for performing transactions with related parties (the Procedure). To this end, the Control and Risk Committee (the Committee) was allowed:
- firstly, to intervene in the investigatory process formulating comments, suggestions and recommendations on the preliminary and non-binding term sheet (since there was as yet no business plan) in order to express an initial opinion (meeting on 27 September 2017);
- then to verify how the management had taken account of these comments during the negotiation of the binding term sheet (complete with business plan), on which, once again, the Committee expressed an opinion before the board approved the mandate to finalise the definitive agreements (meeting of 19 October 2017);
- finally, to reiterate its support for the vision of the initiative stated by the management, approving the proposal to amend the agreements reached with the other party, and therefore expressing its favourable opinion regarding the renewal of the board’s approval of the Transaction (meeting on 4 December 2017).

In all three occasions, the Committee formulated a favourable opinion by a majority (votes in favour, Ms Antonini, Ms Herzog and Ms Moretti), with the dissenting votes of Professor Calvosa (Chair) and Professor
Cornelli, who also drafted a specific dissenting opinion of the draft binding term sheet (approved by the Board on 20 October 2017).

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Before issuing its opinions, the Committee decided to acquire the support of a consultant that is an expert of the telecommunications industry and an external audit firm, identified - after a 'beauty contest' coordinated by the offices of the Company - as Q10 Media (independent marketing analysis and communication company) and PricewaterhouseCoopers.

The task assigned to Q10 Media (start date 21 September 2017, lump sum fee of 35,000 euros) was to assess TIM’s interest in entering into the joint venture, and doing so with Canal+, and then analyse the technical terms and conditions of the agreement, with particular regard to the adequacy of its content and the corresponding remuneration mechanisms. The consultant reviewed both the preliminary non-binding term sheet and the final binding term sheet with the management, reporting back to the Committee in its meetings on 27 September and 19 October 2017. On the first occasion it discussed the Company’s interest in the creation of a joint venture, stating that it recognised that “The recent evolution of Tim Vision and the possibility of a joint venture with a major player on the international market such as Canal+, could meet the need for efficiency and leverage of the company’s assets, if clearly oriented towards specific and crucial objectives” which had been indicated and explained. With a view to issuing an opinion on the draft binding term sheet (complete with the business plan), Q10 Media then proposed a strategic analysis of the business plan of the joint venture, with reference to content costs, and providing suggestions on their more efficient allocation.

With effect from 21 September 2017 and for a fee of 180,000 euros, PricewaterhouseCoopers was commissioned to carry out an independent analysis of the term sheet, with a particular focus on the terms and conditions agreed by the parties and on the benefits of the agreement for TIM. It did so based on the documentation supplied by the management of TIM and information it collected at the company, as well as on data in the public domain, without carrying out specific benchmarking or market research. Given that in the consultant’s opinion was that “In a market that is progressively more oriented towards mobile consumption, Telco operators are going to play a key role in contents distribution to their customer base.” Therefore, each player has to promptly define its strategic positioning, deciding whether to develop competences that are necessary to strengthen their position in the media market (also through extraordinary transactions or JV), or to seek alliances and partnerships, focussing on distribution”, the outcome of the work was the first report on the non-binding term sheet (presented to the Committee on 27 September 2017), and a second report on the binding term sheet (presented in the meeting on 19 October 2017). The document highlighted a series of points of attention regarding both the business plan (estimates of the customer base for the Tim Vision service and of the evolution of TIM’s customer churn; the predicted trends in the NGN customer base; the characteristics of the retail commercial offer that was hypothesised; the revenue model of the joint venture; the costs for the OTT platform and content) and the structure of the joint venture (business model; the branding of the service and the company name; the change of control clause; the conditions to the entry of new partners; the balance between the “first rights” attributed to the parties regarding content; the governance and the deadlock clause and relations with related parties).

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To ascertain the importance of the Transaction, in light of the applicable Consob Regulation, the TIM Management Committee (in the exercise of its investigatory function, as set out in the Procedure) has considered both the asset relevance ratio and the equivalent-value relevance ratio, bearing in mind the undertakings given to one another by the parties, in their predefined economic dimension, for the period of three years. In this way, it concluded that this was a transaction with related parties of lesser importance, since it had been found that the 2.5% threshold had not been reached.
However, on this point it should be noted that the Board of Statutory Auditors took a different position. It considered that said threshold would have been breached if, in addition to the initial three-year period, the subsequent three-year period had also been considered (a total of six years). Although this was based on simple projections for the eventuality that the parties intended to protract their collaboration beyond the period on which the binding business plan annexed to the term sheet was based. This led the Board of Statutory Auditors, after the board approval of 20 October 2017, to firstly decide that the conditions of greater importance were fulfilled, and it consequent reported a presumed irregularity to Consob (the Procedure contemplates a different investigatory process, in the case of a transaction of greater importance with a related party), and then to ask for the agenda of the meeting of the Board of Directors called for 5 December 2017 to be supplemented, to proceed to revoke the aforementioned resolution of approval, and then to pass it again, in compliance with the rule applicable to transactions of greater importance with related parties.

In order to best protect the interest of the Company, against what it deemed to be a mere misunderstanding on the part of the Board of Statutory Auditors, the management of the Company in response proposed (and obtained), a further clarification on the duration and the extent of the undertakings connected to the joint venture, as indicated in its term sheet, through an amendment intended to clarify beyond any possible, different interpretation that the undertakings between the parties refer exclusively to the first three-year period.

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For its part, the Board of Directors of the Company:

- on 28 September 2017, with the dissenting votes of Mr Borsani, Professor Calvosa, Professor Cornelli, Mr Frigerio and Mr Vivarelli, resolved
  - to approve the continuation of the negotiations with Canal+ based on the non-binding term sheet already signed between the parties, taking account of the comments that had emerged during the discussion and the opinion of the Committee;
  - to schedule another meeting as soon as the definitive terms and conditions had been agreed with Canal+, for their final approval and to grant the Chief Executive Officer the powers to conclude the necessary contracts;
- on 20 October 2017, with the abstention of Professor Cornelli, Mr Frigerio and Mr Vivarelli, and the dissenting votes of Mr Borsani and Professor Calvosa, the Board of Directors resolved
  - to approve the terms and conditions of the joint venture with Canal+ defined conclusively in the negotiation, as summarised in the draft binding term sheet;
  - to authorise the Chief Executive Officer to sign the aforementioned term sheet and therefore
  - to grant him all powers to negotiate, finalise and stipulate, directly or through special agents, the final contracts within the limits set under said term sheet, with the commitment to re-submit to the Board of Directors any changes and/or additions to these terms and conditions that may alter the negotiating balance reached;
- on 5 December 2017, having duly considered (i) the decision taken on 20 October 2017, and the related reasoning on the interest, benefits and correctness of the transaction, (ii) the findings subsequently formulated by the Board of Statutory Auditors, (iii) the amendment to the term sheet between TIM and Canal+, containing the clarification, to remove any possible doubt, that the undertakings between the parties refer exclusively to the first three-year period of the initiative, with the abstention of Mr Borsani, Mr Frigerio and Mr Vivarelli, and the dissenting votes of Professor Calvosa and Professor Cornelli, resolved
  - to renew the approval of the terms and conditions of the joint venture, amended as specified above;
  - to confirm the powers previously attributed to the Chief Executive Officer to negotiate, to finalise and stipulate, directly or through special agents, the final contracts, with a commitment to re-submit to this Board of Directors of any changes and/or additions to these terms and conditions that alter the negotiating balance reached.

Annex

- Control and Risk Committee Opinion October 19, 2017
- Control and Risk Committee Opinion December 4, 2017
TIM S.p.A. / Canal+ Joint Venture
Control and Risk Committee Opinion pursuant to the regulations on transactions with related parties

October 19, 2017

The TIM Control and Risk Committee, by a majority vote:

- given (i) the documentation (non-binding term sheet signed on 17 August 2017 and the presentation by the management), distributed before the meeting on 27 September 2017, (ii) the intermediate draft of the binding term sheet distributed on 14 October 2017, (iii) the final draft of the binding term sheet (including the initial business plan of the joint venture being created) distributed in the afternoon of 18 October 2017, (iv) the explanatory documentation on the final draft term sheet prepared by the management, distributed on the evening of 18 October 2017;

- considering the results of the analyses carried out by its consultants, PWC and Q10 Media, presented at the meetings on 27 September 2017 and 19 October 2017, and in the relative documents held in the records;

- taking account of the presentation of the strategic rationale for the transaction and its operative details, drawn up by the management of the Company in its meeting of the Committee on 27 September 2017, in the informal meeting (the Strategy Day) on 28 September 2017, in the board meeting on 28 September 2017, in the meeting again of the Committee on 19 October 2017, with specific presentation of the evolution of the agreements, also in view of the suggestions and recommendations formulated by the Committee itself on the occasion of the aforementioned board meeting on 28 September 2017;

- whereas the Committee had already, on 27 September 2017 issued a positive opinion, by majority vote, on the interest and the advantage, in principle, of the project for the Company: it was therefore an opinion that approved the continuation of the negotiations, according to the overall scheme set out in the previously cited non-binding term sheet on 17 August 2017, reserving the right to consider in detail the terms and conditions of the final agreements and the business plan, as the Committee had then done on 19 October 2017;

- having been ruled out that the transaction qualifies as a transaction of greater importance, pursuant to the dimensional criteria contained in Consob Regulation No. 17221/2010, and a majority considering it inappropriate to treat the transaction as a transaction of greater importance pursuant to art. 20 of the Procedure for performing transactions with related parties of the Company, and hence convinced of its competence to express an opinion on the matter;

accepts the prospects for the initiative set out by the management of the Company and therefore expresses a favourable opinion of the decision by the full board to create a joint venture between Tim and Canal+, as set out in the draft of the binding term sheet distributed, for the following reasons:

- the initiative is in the interests of the Company:
  ✓ the initiative reflects the trend, which can be noted among all telcos across the world, of focussing on and converging with media companies, in order to identify new opportunities for top line growth, also to the benefit of an improved share price;
  ✓ the joint venture with one of the world’s major media companies will accelerate the uptake of fibre, grasping the commercial opportunity represented by the low level of penetration of pay-TV and the projected development of the broadband market in Italy;
  ✓ a TV+Telco ”go2market approach” will also allow the company to enrich its fibre offer, with advantages in terms of lower churn and growth in broadband market share;

- the advantages of the collaboration project:
  ✓ compared to the previous attempts made by TIM at partnership with Media Companies (which failed because direction was left to a partner that had its own market and its own technology to defend), the joint venture with Canal+ is characterised by the circumstance that in this company the video content will become a lever that is managed by Tim (the controlling company of the JV) to promote the objectives of TIM itself;
  ✓ the partnership leaves room for TIM to have its own operational autonomy whenever the interests of TIM are not aligned with those of its partner with deadlock and exit provisions that maintain the governance of the joint venture and the capitalisation of its start-up in the hands of the Company;
 the agreements attribute to TIM the possibility of accessing the Canal+ platform at a cost that is competitive, compared to that of similar platforms on the market, but still leaves the joint venture itself free to make its own assessments;
 the business plan for the initiative is attractive, showing robust value creation, also confirmed by the sensitivity analyses, assuming lower fibre take-up rates and development of the TIMvision customer base lower than the rates estimated by the parties in the negotiations;
 the agreements envisage the possibility of an appeal to the shareholder for the marketing at international level of these products made by the joint venture, thereby opening to a possible business line currently not available;

- the substantial correctness of the conditions of the agreement:
   The term sheet outlines clearly the essential profiles of the partnership, with particular reference to financial commitments, commercial rights, governance rights, and provisions for deadlock and exit, with balanced arrangements for relations with the counterparty and an approach scaled in proportion to the partner's stakes in the capital, but always respectful of TIM's interest;
   the duration of the commitment is adequate, particularly in light of the possibility and regulations on exit, and the possibility of reviewing its conditions, as early as 18 months after the launch of the commercial offer and then after three years upon the expiry of the committed initial business plan
   the agreement prescribes a variable fee based on the allocation of risks, functions and assets within the transaction and, for the first three years only, a minimum amount has been introduced for these fees, to support the company start-up phase and in any event for sums just below the level of investment that TIM had already planned for the next three years within its own strategic plan.

It is understood that the Committee has already expressed its opinion that it considers that the future transactions of a joint venture will be transactions of TIM, for the purposes of the application of the Procedure for performing transactions with related parties, and that the agreement explicitly includes an undertaking by the Parties to apply their respective regulations on this topic.

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Dissenting opinion Calvosa – Cornelli - OPINION ON JV CANAL+

Regarding the RPT regulation relative to the JV with Canal+, Ms Calvosa and Ms Cornelli express a dissenting opinion, for the following reasons, some of which were raised several times at the meetings of the CRC on 18 September and 27 September 2017 (see related minutes).

1) The transaction cannot be qualified as a transaction of lesser importance, based on the value of the transfer, since for the purposes of such a qualification, account must be taken of the whole transaction value of the JV in relation to the business plan of the company being created (currently not yet definitive: see the so called initial business plan).

Based on the business plan, also taking account of sports rights, which are not included individually, and also taking account of the horizon of the plan and the indirect investments, the value is above that for transactions of greater importance.

Given the above, the transaction should have been treated with the safeguards for transactions of greater importance. In any case, for both the quantitative assessments set out above, and because of advisability considerations around the sensitivity of the issue, the transaction should have been qualified as a transaction of greater relevance in the terms of article 20 of the RPT Procedure.

2) Again in terms of procedure, the process was flawed from the beginning because the term sheet (not binding but in very great and specific detail) submitted in August by the Chair, Mr De Puyfontaine, in blatant conflict of interest, was not submitted to the CRC (or the Committee of Independent Directors, if qualified as a transaction of greater importance) for review.

3) The transaction, described in these terms, does not fit properly into the current IP, or in the current plan for the allocation of investments. In fact, the IP envisages a progressive and gradual path towards content, and not a real change of direction, with the consequent impacts on strategies as a whole. The JV necessitates a revision of the business model as well as a change to the plan for the allocation of investments, with the consequent impact on the IP.
It must be added that the investments planned for the JV now become difficult to reconcile with the new investments that TIM will have to make after the Golden Power measure. With the risk that resources necessary for the development of ultrabroadband are diverted toward content acquisition. Given the Italian Government’s recent declarations that it wants to rule on the strategic decisions of TIM, and the recent expressions of concern that resources might be diverted from the Network toward content, it is somewhat unfortunate to sign, in haste, an agreement that will bind the future strategic choices of TIM and can create further tensions with the Italian Government.

4) The Governance of the company being constituted is entirely in favour of Canal+, which can exercise several powers of veto on any decision that is not of minimal importance, even if there is the mitigation of scalar governance. Although it has been stated that it will be possible for the (new company) to be open to other operators, it is evident that the option is only formal, since it appears difficult to make the entry of a new industrial operator coherent with this model of governance, since Canal+ has the right of veto on the involvement of a new industrial partner.

5) With the Guaranteed Minimum, TIM is effectively subsidising investment in new Canal+ products. Prescribing a Guaranteed Minimum translates into “support grants”. It must be added that, given the market costs, revenues consistent with the actual development of customers who will use the service must be defined; the business model must be defined not by shifting all the business risk to TIM (see also the document of consultant PWC). Moreover, it does not seem correct that the fee per NGN customer is calculated for the entire customer base without a cap. The variable fee is largely dependent on the number of NGN customers and it is not necessarily the case that the acquisition decisions will be made based on the attractiveness of the content.

Nor does the business plan contain a sensitivity analysis showing what might happen if the take-up rate for STB is decidedly below expectations: in this case TIM will pay the Guaranteed Minimums on the content and will have reduced revenues, both direct (TV offer) and indirect (benefits on churn and new acquisitions).

6) In this respect, it should also be recalled that there is an ongoing dispute with Sky. This JV will certainly be perceived by SKY as a hostile manoeuvre and will reduce the likelihood of a favourable resolution to the dispute. Account should have been also taken of this in calculating how advantageous the transaction would be for TIM.

7) The JV is limited to TIM customers, so the possibilities for growth are very limited. The Brand is to TIM’s and the skills and knowledge of the Italian market are mainly TIM’s. The sharing of data on TIM customers determines an exceedingly high value contribution that is not taken into account in the division of the shares. It must be added that Canal+ has veto power on any relations with third parties, thus limiting TIM’s capacity to start relations with other distributors and producers. It is true that TIM can always initiate such relations outside the JV, but in that case it is hard to see what interest it has in investing in the JV.

8) With the JV a dependency on Canal+ is created, both with reference to the use of the platform and with regard to the Company and brand name (also stated in the PWC document). In particular, it must be emphasised that if the plan provides for the use of only the Canal+ platform, this limits TIM’s capacity to develop its knowledge, and makes it increasingly dependent on Canal+. While if the development of a separate platform is envisaged, this requires a considerable investment, and account must be taken of this in assessing not only the advantageousness of the transaction, but also its qualification as a transaction of major relevance.

9) In the Italian market, unlike the French one, there is a successful operator, namely, Sky. It is not clear if a prior agreement with Mediaset Premium is envisaged or otherwise hoped for. On this point the conflict of interest of the controlling shareholder is evident, due to the ongoing litigation. More generally, the timing of the definition of a JV appears in full conflict of interests as Vivendi seem (source: press) have start a negotiation with Mediaset. It is evident that the current JV, if finalised, creates a market operator that would certainly weaken the competitive positioning of Mediaset Premium.

10) There has been no legal or regulatory analysis of the possibility of completing such a JV in a very complex regulatory context such as the current one, in which Vivendi has not yet clarified properly its situation as a shareholder in both Mediaset and TIM. Impact of the operation on the telecommunication market and the media: are we certain that AGCom will give the go-ahead to the launch of the JV, and not impose penalties?
11) Change of control clause provision. It should be noted in this respect that the term sheet prescribes that if TIM does not exercise its own call option, Canal+ would have a put option to sell to TIM "all securities issued...and any shareholder loan made by Canal+." This put option seem inappropriate to us, since Vivendi, and not TIM, may take the decision for a change of control, and thus TIM should be protected, not Canal+.

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In addition to the reasons set out above for our opposition to the transaction, the independent advisors appointed by the CRC (see opinions), and, above all, PWC, have raised many critical aspects, that are here referred to in full.

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All the reasons set out above are in our view sufficient to demonstrate that the transaction creating a JV with Canal+, as presented, does not conform with the interests of TIM and is not advantageous for TIM. Nor are the its substantial conditions are correct and functional to the interests of TIM. Furthermore, in the absence of a strategic plan, the urgency to sign an agreement that limits TIM’s flexibility (due to veto power given Canal+) is incomprehensible.

Given this, we vote against the proposal, and ask that our dissenting opinion, and the reasons for it, be disclosed also to the BoD.
The TIM Control and Risk Committee, by a majority vote:

- referring to its favourable opinion regarding approval of the joint venture transaction between TIM and Canal+ by the full board, expressed on 19 October 2017;
- having regard to the letters of 30 November 2017, signed by the Chair of the Board of Statutory Auditors, and 2 December 2017, signed by the Executive Chairman and CEO;
- considering the illustration of the operation given by the management during the board meeting of 20 October 2017 and given (i) the responses provided by the management to the dissenting opinion enclosed with the aforementioned favourable opinion, as per the letter distributed during the board meeting of 10 November 2017, as well as (ii) any and all further documents made available re the hypothesized joint venture transaction;
- having confirmed and ascertained that the overall joint venture transaction is defined as a transaction with a related party of lesser importance, based on the criteria established by Consob no. 17221/2010, as applied by the Company’s management, in the terms duly stated;
- ruling out any voluntary definition of the joint venture transaction as a related party transaction of greater importance, based on considerations of appropriateness, in accordance with the company’s Procedure for performing transactions with related parties;
- acknowledging the management’s decision to provide further clarification regarding the duration and scope of the undertakings linked to the joint venture, as described in the relevant term sheet, though negotiations of the definitive agreements are still ongoing;
- acknowledging in particular the agreement reached with the counterparty, aimed at making it clear beyond any possible different interpretation, that every and all commitment among the parties refers to the initial three years only;
- acknowledging also that this amendment is consistent with the non-exclusive nature of the joint venture, as far as Tim is concerned;

reiterates its support for the vision of the initiative stated by the management, approves the aforementioned proposal to amend the agreements reached with the other party, and therefore confirms and reiterates its favourable opinion regarding the approval for the joint-venture transaction between TIM and Canal+ by the full board, including its amendment, as above, justifying it, in summary, as follows:

- How the initiative is in the interest of the Company:
  - the initiative reflects the trend, which can be noted among all telcos across the world, of focusing on and converging with media companies, in order to identify new opportunities for top line growth, also to the benefit of an improved share price;
  - the joint venture is consistent with the existing company strategy (2017-2019 plan) and the one currently being drawn up (2018-2020). Its main objective is in fact to develop a full and distinctive range of content through production/co-production and the purchase of rights, benefiting from the partner’s skills and assets;
  - the joint venture with one of the world’s major Media Companies will accelerate the uptake of fibre, reduce churn and improve customer loyalty, grasping the commercial opportunity represented by the low level of penetration of pay-TV and the projected development of the broadband market in Italy;
  - the joint venture agrees to consider further partnerships with other media companies, remaining open to the entry of new partners, a circumstance that, in fact, is to be hoped for, and in this case it has been established that the agreements between the partners would be revised, also to promote the entry (of such partners), it remaining established that TIM will maintain the control;
✓ the project is intended to ensure the profitability of investments already made by TIM (primarily those to secure the deployment of the ultrabroadband network in fibre), which have thus far failed to bring the expected results, ensuring a major economic and strategic gain for TIM in return for assuming the equity risk and the basic commercial risk of the initiative;
✓ a TV + Telco “go2market approach”, with a selling proposition based on the try-and-buy and up-selling / cross-selling logic, will allow TIM to enrich the fibre offer, with advantages in terms of reducing churn and increasing market share (however defended) in the broadband sector, particularly in view of the prospect of new players entering the mobile and/or fixed market;

- The advantages of the collaboration project:
  ✓ compared to the previous attempts made by TIM at partnership with Media Companies (which failed because direction was left to a partner that had its own market and its own technology to defend), the joint venture with Canal+ is characterised by the circumstance that in this company the video content will become a lever that is managed by TIM (the controlling company) to promote the objectives of TIM itself;
  ✓ the partnership leaves room for TIM to have its own operational autonomy where the interests of TIM are not aligned with those of its partner with deadlock and exit provisions that maintain the governance of the joint venture and the capitalisation of its start-up in the hands of the Company;
  ✓ the joint venture represents an opportunity to grow expertise that today is not present in the TIM Group, but which the management believes is needed to defend and grow the current market position and top line of the Business;
  ✓ the level of investment in joint venture, over the life of the plan, is substantially in line (indeed less) than the level already forecast by the Company on a standalone basis in its own strategic planning. The initiative does not entail an inappropriate diversion towards acquiring the content of resources destined or to be destined to the development of ultrabroadband;
  ✓ the agreements attribute to TIM the possibility of accessing the Canal+ platform at a cost that is competitive, compared to that of similar platforms on the market, but still leaves the joint venture itself free to formulate its own assessments;
  ✓ the three-year business plan for the initiative (ambitious, but consistent with the precedents set by other European market operators) is attractive, showing robust value creation potential, also confirmed by the sensitivity analyses, assuming significantly lower fibre take-up rates and the development of the TIMvision customer base than the rates estimated by the parties in the negotiations;
  ✓ the agreements envisage the possibility that the joint venture partner would undertake the international marketing of these products made by the joint venture, thereby opening the possibility of a business line that currently is not available;

- The substantial correctness of the conditions of the agreement:
  ✓ the term sheet clearly outlines the essential profiles of the partnership, with particular reference to financial commitments, commercial rights, governance rights, and provisions for deadlock and exit, with balanced arrangements for relations with the other party and an approach scaled in proportion to the partner’s stakes in the capital, but always respectful of TIM’s interest, and leaving to TIM the operation of the company and the right to exercise a call right in the presence of situations of conflict with the other partner, especially on issues of a strategic and operational nature;
  ✓ the conditions of the agreement prescribe that balanced rights are to be attributed to the parties, proportional to the costs and risks assumed by each, according to terms and arrangements that are aligned with market practices in comparable operations (and this also with specific reference to the “critical” content, first and foremost the issue of the guaranteed minimum);
  ✓ rights of the minority shareholder:
    - these relate to the standard protections related to structural changes in the subject of the joint venture (thus the investment), for as long as the said shareholder maintains a 20% stake;
    - in relation to the management, pertain exclusively to (i) approval of the budget and plan (standard practice in any joint venture) or (ii) transactions of an extraordinary size for the industry (furthermore with a substantial loss of veto right in the event of the stake falling below the 40% threshold);
✓ the duration of the commitment is adequate, particularly in light of the option and regulations regarding exit, and the possibility of reviewing its conditions, primarily upon expiry of the three-year business plan on which the initial commitment was based;
✓ the agreement prescribes a variable fee based on the allocation of risks, functions and assets within the transaction and, with a minimum level over the coming three years (in accordance with a mechanism typically used in the sector) to support the company start-up phase and in any event at levels which are substantially consistent with the level of investment that TIM had already planned for the next three years within its own strategic plan.