Côtes de Gascogne PGI wines: the Autorité de la concurrence sanctions SAS Distribution du Domaine d'Uby for imposing minimum resale prices on its distributors

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Background

Following a report prepared by the Provence-Alpes-Côte d'Azur, Occitania and Corsica Interregional Competition Investigation Brigade (BIEC), the *Autorité de la concurrence* has imposed a fine of €500,000 on SAS Distribution du Domaine d'Uby (SDU), jointly and severally with its parent company, for engaging in cartel practices aimed at imposing on its distributors a minimum resale price for "Uby" wines, marketed under the "Côtes de Gascogne" protected geographical indication (PGI), and Armagnacs.

The evidence in the file shows that SDU issued recommended prices to its distributers, which the latter were required to respect. SDU also monitored compliance with the pricing instructions, even going so far as to sanction any distributors that persisted in ignoring the instructions, by delaying deliveries.

SDU did not contest the facts alleged by the *Autorité de la concurrence* and benefited from the settlement procedure.

SDU contractually controlled its distributors' pricing freedom

The *Autorité de la concurrence* found that SDU issued recommended prices to its distributors (wholesalers to cafés, hotels and restaurants, as well as wine merchants and online retailers), which were encouraged to maintain a certain retail price point for Uby wines and Armagnacs. The contractual documents between SDU and its resellers contained a series of provisions designed to control the resellers' pricing freedom by requiring the resellers not to set their retail resale prices below the recommended prices communicated.

SDU monitored and sanctioned distributors that failed to comply with the pricing instructions

The investigation revealed that SDU ensured that its distributors complied with the pricing instructions by establishing a monitoring system operated directly by SDU and indirectly via its distributors, which could denounce the trade practices of any competitors that contravened the pricing instructions. The monitoring system included mechanisms ranging from reminders of the commercial policy to financial penalties or delivery delays.

SDU did not contest the practices and was fined €500,000

SDU did not contest the practices and asked the *Autorité* for the benefit of the settlement procedure. A settlement report (*procès-verbal de transaction*) was prepared and signed by the Deputy General Rapporteur, setting out the maximum and minimum amounts of the fine that could be imposed by the *Autorité*.

After examining all the facts of the case, taking into account in particular the certain seriousness of the practices and their duration (more than three years), the *Autorité* decided to impose a fine of €500,000 on SDU, jointly and severally with its parent company.

Information for companies

A supplier may not impose a resale price on its distributors.

As a result, a supplier:

- may not use minimum or recommended, “advised” or “indicative” resale prices that are in fact mandatory, for example by monitoring and/or sanctioning distributors (physical or online) that fail to apply the prices;

- may not contractually set resale prices.

DECISION 24-D-07 OF 17 JULY 2024

regarding practices implemented in the sector for the sale of Côtes de Gascogne PGI wines

See the full text of the decision (in French)

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