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The Conseil de la concurrence penalizes Léonidas to €120, 000 for preventing distribution retailers from stocking up from the supplier of their choosing

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Following a referral by the Ministry of Economy, the Conseil de la concurrence has issued a decision penalizing the company SA Confiserie Léonidas to €120, 000 and orders it to stop limiting the retailers' possibility to stock up from suppliers of their choosing and to easily change supplier.

The organisation of Léonidas network and the customer restriction practices concerned

The Belgian company Léonidas sells its products in France through wholesale dealers, who are the only ones authorized to import its products in order to resell them in their own shops and/or other independent retailers.

In May 2006, the French network comprised 15 retailer-importers and 306 sales outlets.

Léonidas terms of sale provide that "(...) Léonidas sells its products (...) only to ITS customer-dealers (...) previously authorized in writing to sell them in well defined sales outlets (...)".

If a retailer supplies Léonidas with a new sales outlet, this one, after being accepted by Léonidas, is listed among the customers to be supplied. However the wholesaler concerned may only supply the sales outlets for which it has

received a sale authorization. A temporary supply of a retailer by another dealer is possible but requires a written agreement by Léonidas and the wholesaler.

The system allows no permanent competition between dealers by the retailers for getting supplied.

A flagrant competition restriction : the retailers cannot put competition into play between various retailers for getting supplied

The organisation set up by Léonidas indisputably constitutes an infringement to the free play of competition both for dealers - who cannot put competition into play between us - and retailers, who cannot put competition into play between dealers, who supply them, so as to obtain lower prices.

The fact of reserving exclusively retail customers for each dealer constitutes a customer restriction practice which is prohibited by Community and national law. The objective of such a provision is by nature to hinder intrabrand competition, i.e. competition which may exist between different sales outlets for a given brand.

The Conseil de la concurrence has therefore penalized the company SA Confiserie Léonidas to €120, 000 and ordered it to stop its practices.