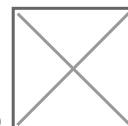


20 April 2010: Adoption of new European competition rules regarding distribution agreements

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The *Autorité de la concurrence* welcomes the modernization of the European rules on distribution agreements, as unveiled today by the European Commission.

Bruno Lasserre, president of the *Autorité*, stated: "*this new framework, which is consistent with the approach adopted by the French Autorité de la concurrence, will stimulate competition for the benefit of consumers, while ensuring that companies have the predictability that they require in order to build their distribution networks.*"

Competition rules prepared with the help of the national competition authorities

The texts adopted by the European Commission include a new exemption regulation on distribution agreements, as well as guidelines that illustrate the method that must be followed for the legal and economic analysis of these agreements.

They are the outcome of two years of work intended to provide Europe with a regulation that suits the new commercial stakes, while being based on a solid economic analysis of distribution agreements.

The mobilization of the *Autorité de la concurrence* ([opinion of 28 September 2009](#)), and of the 26 other national authorities that are members of the European Competition Network (ECN), helped to enhance the European Commission's

competitive analysis on many issues, in addition to the public consultation. Two main innovations can be pointed out.

- *More efficient control of mass retail distribution*

The new regulation provides the national competition authorities with new tools for including the purchasing power of distributors as part of the competitive analysis.

This innovation is consistent with the law on the modernization of the economy (LME) of 4 August 2008, which prompted the French Parliament to set up a special regime for mergers in the retail distribution sector, so as to better prevent any abuse of market power in this key sector for consumers.

It also aligns with the priorities of the *Autorité de la concurrence*, that recently initiated self-referrals for opinions regarding several matters relating to mass retail distribution.

- *Easier online trade, in the service of the real economy*

The second major change has to do with online commerce. The new texts provide more legal security for suppliers and distributors involved in online trade, for the greater benefit of a price-based competition.

However, coherent with the decisions of the *Autorité de la concurrence* relative to products such as watches, hi-fi equipment or cosmetics, they also take into account the fact that distribution strategies focusing on other criteria, such as the quality or proximity of services, can also be beneficial to consumers. Therefore, the new regulation formally stipulates that competition law does not prohibit suppliers from making a distributor's acceptance into a selective distribution network contingent on the ownership of one, or more, physical shops [i.e. "*brick and mortar*" shops]. Actually, this is a means available to them in order to ensure an adequate contribution, from each of their distributors, to the necessary costs for the proper exploitation of their brand.

On the opposite, the Commission recalls that it is illegal for a supplier to prohibit,

in a general and absolute manner, the distributor members of its network from undertaking online sales.

This new legal framework, which reconciles "*brick and mortar*" sales with online sales ("*brick and click*" principle), should allow European consumers to benefit from a vast range of quality products and services, at the best possible price.

> [To consult the European Commission's press release](#)