10 September 2015: Distribution of consumer goods in the French overseas territories

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The Autorité de la concurrence has obtained from several mainland manufacturers their commitment to put an end to the exclusive distribution of their products in the French overseas territories and to implement a competitive bidding approach to select their wholesale importers.

> Version française

In brief

Following two ex-officio proceedings, the Autorité de la concurrence has just obtained from several manufacturers (Bolton Solitaire, Danone, Johnson & Johnson Santé et Beauté France and Pernod-Ricard)[1] their commitment to remove any exclusivity clause in the distribution of their products in the overseas territories[2].

Going beyond their legal obligations[3], which only require them to refrain from implementing any exclusivity agreement without sufficient justification, the companies have proposed to periodically select their non-exclusive wholesalers on the basis of transparent, non-discriminatory tendering or competitive procedures. This process ought to make it possible to enhance competition between wholesalers, or even to bring new operators into the market, and ultimately to boost price competition for the consumer goods in question, to the benefit of overseas customers.

Distribution of consumer goods in the overseas territories

Consumer goods distributed by retailers in the overseas territories are not generally produced or packaged by local companies but by manufacturers from mainland France and then shipped from continental Europe. To do so, the manufacturers use the services of intermediaries, known as “wholesale importers” or “brand agents”, who perform various logistical (storage, delivery) or commercial operations and sell on the goods purchased to retailers.

Exclusive distribution relationships

The Autorité’s investigation has shown that, in most cases, a single wholesale importer per territory ensures the distribution of a given brand, or even all of a manufacturers’ goods and brands.
Some manufacturers grant their overseas commercial middlemen de facto or de jure exclusive relationships for the supply of certain overseas territories.

Those exclusive relationships are likely to constitute practices prohibited by law. The four manufacturers concerned – Bolton Solitaire, Danone, Johnson & Johnson Santé et Beauté France and Pernod-Ricard – thus expressed their wish to offer commitments to remedy this situation.

Commitments going beyond their legal obligations

The four manufacturers have committed to establish non-exclusive distribution agreements with the wholesale importers. Quickly after the start of the proceedings, they have expressed their wish to go beyond their legal obligations by proposing to select periodically their non-exclusive wholesalers on the basis of transparent, non-discriminatory tendering or competitive procedures.

These commitments will boost competition

After market testing these commitments (see market test of 13 May 2015), the Autorité de la concurrence has considered that these commitments do address its competition concerns. It has accepted them and made them binding. These commitments should thus make it possible to boost competition between wholesale importers, or even bring new operators in the market.

Moreover, the Autorité continues investigating similar practices implemented by other companies in the consumer goods retail sector.

1 The brands in question are, among others: Carolin, WC net, Sanogyl… (for Bolton Solitaire SAS) ; Volvic, Evian, Badoit, Gallia, Blédina… (for Danone SA) ; Le Petit Marseillais, Vania, Nett, Neutrogena, Laboratoires Vendôme… (for Johnson & Johnson Santé et Beauté France) ; Ricard, Pastis 51, Clan Campbell, Absolut Vodka… (for Pernod-Ricard).

2 The territories concerned by these commitments proposals are: La Réunion, Mayotte, Guadeloupe, Martinique, French Guiana, Saint-Barthélémy, Saint-Martin, Saint Pierre and Miquelon, Wallis and Futuna.

3 Lurel law of 20 November 2012.

> See full text of Decision 15-D-14 of 10 September on the practices implemented by the companies Bolton Solitaire SA, Danone SA, Johnson & Johnson Santé et Beauté France and Pernod-Ricard in the sector of the distribution of consumer goods in the French overseas territories

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