

Annex II - IDEAS

Adapt definition of "genuine agent" to online world and give note certainty to suppliers and intermediaries
Clarify definition of "genuine agents" in the online environment
Keep + clarify agency exemption in a digital context
Clarification on vertical information exchanges
Clarification that dual distribution system do not prevent application of VBER
Guidance on information exchange in dual distribution scenarios
More balanced approach to dual distribution / pricing practices to enable consumer access to products via all offline and online channels
Take into account the exchange/sharing of (consumer) data
Clarify the concept of « consumer welfare »: shall it be only linked to pricing or take into account new consumption habits?
Clearer recognition in VBER of non price consumer benefits and long term impacts, eg shop availability
Focus needs to change meaning that consumer benefit is not about low prices only
Focus on quality of service (not only on prices)
Holistic approach on consumers, not just on price
If it's not broke don't fix it - Draft the VBER should not focus on price but on quality of service - physical presence is essential
Rebalance the VBER towards quality competition in light of now developed online market
Recognise different dimensions of competition - not just price
CONSIDER B&M SHOPS A BENEFIT TO THE CONSUMERS. EXAMPLE: ALLOW DUAL PRICING AND CLARIFY PRODUCTS ELIGIBLE FOR SELECTIVE DISTRIBUTION SYSTEM
Dual pricing should be allowed to promote quality services of brick and mortar outlets
Dual Pricing: support investments in different channels , avoid free riding
Better definition of franchising
Clearer rules on how online/ offline sales work together to preserve innovation and quality
Equal obligations in competition distribution channels
Good balance between interest of franchisers and franchisees
Look into limitations imposed on franchisees when it comes to non-compete clauses after franchise agreement ends, and limitations regarding how to develop their franchise business
More clarification of definitions and examples ie. franchise, agency, know how,
Compensation for investments in selective networks /cf free riding
Consideration of importance of bricks and mortar in the digital age
Create a fair playing field between on- and offline and different business models for enhanced competition, more consumer choice and lower prices.
Ensure a level playing field for all players in a digital environment
Incenting investment in retail (quality and safety).
no hardcore restrictions under safety threshold. Ex-post control by the Commission
Adapt guidelines to specificities of online / e-commerce environment
Clarify SDS criteria post Coty (Nike case in NL vs ASICS case in DE. No cohesion)
Fight vs grey market
Guidelines should better reflect the market realities.
Guidelines. More clear and binding FOR EU Courts and Cartel Offices
Keep sectoral block exemptions - revive article 10 letters of principle
Maintain and modernise VBER - IOT, PLATFORM, DATA- alongside sector specific B.E. Regulations + flexibility + legal certainty
More clarity
More guidance for market definition: multi-channel
More guidance on how ÜBER and VGL apply to services and export of intangible goods. Public contracts - is responding active or passive?
See first to guidelines rather than the regulation
Take account of market power
Clarification of RPM position, either remove ban (Protect against free riding) or maintain (increase intrabrand price competition)
Flexible RPMs and lower thresholds for SMEs /new companies
More flexibility with RPM for groups of independent retailers in concern of e-commerce activities
RPM prohibition should stay, but add limited flexibility for SME retailer groups (e.g. online sales)
RPM: more nuanced approach required. Not the lowest price is in the interest of consumers, but the fair price. Allow manufacturers to protect the brand value.
Better align application across Member States
Clarification of Coty judgement: marketplace bans should not be considered as hardcore. Need to amend par 54 of the VGL to reflect that.
Clarify Coty scope to go beyond luxury
Clarify third party platform restrictions
Clarity around marketplace criteria within selective distribution including consistency approach across EU
Clarity on marketplace bans
Consider impact of marketplace bans on market consolidation, competition between distribution channels, the availability of products and retail prices
Consider imposition of ban on use of comparison sites as a hardcore restriction
Ensure that vertical guidelines are interpreted and applied uniformly (to enhance legal certainty)
Greater clarity on ability to have marketplace specific criteria within selective distribution including consistent application across the EU
Legal certainty regarding marketplace bans in selective distribution means : permitted
Let is keep selective distribution with a harmonized approach and enforcement.
MFN clauses should be prohibited. Providers must be able to provide the best prices and services themselves. Otherwise pricing flexibility will be lost.
On SD criteria should be made clear and disclosed by brands in any case
Re online market place in SDS: clarify option for suppliers to have clear market places (offline, online); platform to adhere to rules if part of SDS
RPM as an hardcore restriction: approach maybe too black or white - not the lowest price but the fair price as the criterion
Rules should 1) provide more legal certainty 2) across National Competition Authorities 3) outside courts (i.e easy to understand) 4) with binding Guidelines
SD: requirement for a brick -and-mortar shop questionable
Status quo on the regulation but clarifications under the guidelines e.g the Coty case
Uniform application throughout EU
Allow restraints of sales to territories outside the EEA where there are inadequate IP protection regimes as this will reduce counterfeit goods
Allow suppliers to ban distributors from selling on online platforms which employ misleading product or pricing information (eg commingling)

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Allow suppliers to do more to preserve physical stores as that will maintain consumer choice and convenience
Assess interplay of price equivalence limitations for online shops with Article 4(a) of the regulation
Balance of power between suppliers and distributors to prevent economic dependence and more clarity for customers
Clarify and limit admissible scope of selective distribution schemes
Clarify the regulation for sales in stores and e-commerce for the benefit of customers. Low price on platform can't allow customer services nor innovation
CLARIFY THE VBER AND THE ARTICULATION WITH 330/2010
Clarity around enforcement against unauthorised sellers ie outside of a selective distribution system
Consumer benefit should include long term effect
Consumer should benefit from all distribution channels, especially also via commercial agents, in order to make possible for them the access to products
Consumer welfare must consider consumers but also "weak" business users of online platforms to restore some balance
Definition of "luxury" goods
Diversity of Products, Manufacturers, Retailers and Brands. With an access to all channels (online and offline)
Ensure that it's clear in the guidelines that wide parity clauses are invalid
Explain how regime will apply to UK affected networks post Brexit and provide more guidance generally on ban on extra EEA sales
Fair competition for both offline and online - respect consumer experience
Flexibility: More flexibility for brands and retailers to negotiate and mutually agree on SDA-actions with focus on individual Channel and Consumer expectation.
For online markets: replace the market share threshold with a market dominance test
Further clarification on active and passive sales definition
Further guidance on vertical agreement definition in the VGL
Legal clarity about implementation of selective distribution
More flexibility on RPM due to stipulate the innovation of products and services.
Need specific set of rules for online market places to better catch today's market and restore fair competition to the benefit of consumers
No limitation on buyer's choice of sales channel (market place ban and brick and mortar requirement)
Protection of Specific brand investments at termination of agreement
Protection of investment in favor of the consumer (more than 5 years)
Provide better explanations of how VBER applies to both services (e.g. online gambling). and intangible goods
Re keep VBER slim but add explanations re e-commerce in GL
Re online platform bans: clarify in GL that acc to Coty they are exempted under the VBER regardless of type of dist system and type of product
Recognizing the consumers harm caused by free-riding
SDS with territorial restrictions and minimum advertising prices.
Transparency & accountability on know how of franchisees
Transparent And Binding criteria for selective Distribution
VBER to be maintained and modernized, but any change on the VBER side should not affect sector-specific BER (MVBBER), which shall be maintained in the longterm.