



Camera Nazionale della Moda Italiana

Public questionnaire for the 2018 Evaluation of the Vertical Block Exemption Regulation

Final comments

To conclude and summarise its contribution, CNMI insists on the fact that the VBER and the VGL are extremely useful for brands but that they must be applied on the basis that vertical restrictions are essential tools for companies in sectors such as the fashion industry. They do not constitute token requirements used to prevent certain competing business models to thrive but are necessary requirements in order for brands' business models to survive and ensure future quality and innovation for consumers.

Although rules governing the use of vertical restrictions are needed in order to prevent anticompetitive behaviour, they must be flexible, clear, adaptable and take into consideration brands', retailers' and consumers' interests.

In relation with our previous comments relating to legal certainty, it should be ensured that rules on territorial and customer restrictions, restrictions of cross supplies, hardcore restrictions falling outside the scope of Article 101(1) TFEU and the analysis of specific vertical restraints contain the legal certainty needed for an efficient conduct of business.

Although an undeniable source of business efficiencies and progress, CNMI believes that the online sector should operate with clear guidelines, not only from a competition law point of view, in order to preserve the existence of the traditional distribution channel and its players. Brand owners should be allowed to exercise greater control over online distribution, including by allocating more products to their offline distribution channel and by monitoring the quantity of products that their resellers sell online and offline. In particular, the online markdown practices (during all the year) should be regulated in order to avoid an unfair competition with the traditional distribution channel.

Although CNMI believes that innovation and the new means of distribution and online advertising can create new opportunities and promote the development of the EU market, such developments need to be carefully balanced with respect to the existing business models and the need to ensure adequate and effective brand protection.