



## I **Uberization a new word for a new distribution world**

New word (in French dictionaries in May 2017) : « Economic model of competition through the involvement of individuals using new technology »

New world : Blabla car, Air bnb, Uber, Tesla ... and more generally platforms.  
We were all consumers ! We will be all distributors !

General question regarding the applicable rules to re-sales between consumers (c to c)

Specific question regarding the behavior of the supplier relating to such re-sales : to favour or to prevent them ?



## **II To Favour**

### **A The consumer can become a member of the supplier's sales force**

The supplier will deliver economic benefits to consumer on the basis of the results :number of re-sales , number of new clients ...

But the supplier has to be aware of unfair practices such as : « establishing, operating or promoting a pyramid promotional scheme where a consumer gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other consumers into the scheme rather than from the sale or consumption of products » (Directive 2005/29 11 May 2005, OJEU 11 June, Annex I pt 14)

## II To Favour

**B** The supplier will help the consumer/reseller develop re-sales

But the supplier has to avoid a relationship that is too close to the consumer/reseller

- too dependent and so considered as an employee which will fall under the provisions of labour law
- or too active and so considered as a « hidden professional » which will fall under the provision of unfair practice rules : « Falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer » (Directive 2005/29, Annex I pt 22).

### **III To Prevent**

The consumer can jeopardise the business activity of exclusive or selective distributors and franchisees

**A** The supplier should control huge re-sales by a consumer ( by analogy Paris 17 Dec 2009 n° 07/06215, Laurice El Bahdry Rame v Sté HJC ) especially through platform (by analogy Com 3 May 2012 n°11-10.508, e-bay v Dior).

**B** The supplier should limit purchases made by consumer (Guidelines 2010/C 130/01 pt 56 : « For example, in order to prevent sales to unauthorised dealers, a supplier can restrict its selected dealers from selling more than a given quantity of contract products to an individual end user. Such a requirement may have to be stricter for online sales if it is easier for an unauthorised dealer to obtain those products by using the internet. Similarly, it may have to be stricter for offline sales if it is easier to obtain them from a brick and mortar shop»)