



International Distribution Institute

NON SELECTIVE CONDITIONS

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WHICH CONTRACTS

- multi-brand retailers:
 - E-tailers/platforms purchasing my products
 - Off-line multi-brand retailers / customers

- mono-brand retailers:
 - non selective franchising
 - trademark license/retail distribution for a single shop

WHY I'M NOT CHOSING THE SELECTIVE SYSTEM?

- Not sufficient bargaining power
- The manufacturer wants to remain free to sell through other parallel channels (e.g. in franchising)
- Products not really suitable for being sold through a selective system
- Other possible reasons or strategies?



WHAT I WANT TO RESTRICT

«Defending a fair profit margin, in order to avoid the proliferation of web offers of my branded articles offered at absurd prices» (Italian Antitrust Authority - Cadel Case – communication to its network)

Aggressive competition through the Internet, which damages the efforts and investments made by my company and by the members of my network

- prices
- brand reputation
- further aspects



WHAT RESTRICTIONS CAN I IMPOSE

Floating within the space left:

- by the Guidelines and the Antitrust decisions and case-law on non-selective resellers
- between the trademark's protection rules and the principle of exhaustion

ON-LINE/OFF-LINE SALES

- to have at least one or more brick & mortar outlets (§ 54 Guidelines): i.e. no «pure players»
- minimum quantity of product to be sold offline, based on objective criteria (§ 52, c)
- consistency with supplier's distribution model (§ 52, c)
- fixed remuneration in order to support the distributor's offline/online sales efforts (§ 52, d)
- no dual pricing

ACTIVE AND PASSIVE SALES

- Forbidding active sales in territories or to customers groups reserved to the supplier or to other buyers (§ 53)
- Export bans outside the EU
- EXCEPTIONAL CIRCUMSTANCES:
 - Restriction of active and passive sales for 2 years in case of launch of new brand/new market which requires investments (§ 61)
 - New product testing (§ 62)

WEBSITE AND PLATFORMS

- qualitative standards: reputation, trademark, lay-out, upon my approval; precise and detailed conditions on the internet connection, stocking, products delivery, customer support, etc. (§ 54)
- direct link to my website or to other distributor's (§ 52, a)
- in case of platforms, compliance with internet sales policy; reseller's website directly reachable (§ 54)



PRICES

General rules:

- ok maximum and recommended prices
- no minimum price

Franchising: exception on imposition of prices for short term low price campaigns (2/6 weeks)



CONCLUSIONS

Am I allowed to apply a restrictive Internet policy to non selective resellers?

Terms and conditions and Internet policy

- drafted in compliance with antitrust rules
- not an indirect violation of such rules
- applied in good faith and without discriminatory purposes



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Thanks for your kind attention

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