



International Distribution Institute

IDI Annual Conference 2025

# Restricting Online Sales and Sales Through Platforms and Aggregators in Franchised Coffee Shops and Restaurants



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# The Panel



Chair:  
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# The Issue

Article 4.1(e) of Regulation 720/2022 considers “the prevention of the effective use of the internet by the buyer or its customers to sell the contract goods or services (..)” a hardcore restriction. For a restaurant or a coffee shop franchise concept online sales could mean that its franchisees set up their own delivery platforms or use third party platforms (aggregators). Such activity is *substantially different* from the franchise concept and rights granted by the franchisor (i.e., providing food and services at the restaurant or coffee shop premises under a uniform name and “look & feel”). Based on the abovementioned reasoning, should a total ban on online sales by the franchisee be allowed, notwithstanding Article 4.1 (e)?

# The Complexities of Online Sales Restrictions

What gives companies a competitive edge?

- Product quality?
- Product pricing?
- The “selling/buying experience”?

The buying/selling experience may be a part of the commercial know-how which supports the franchise system and leverages the capacity of the franchise system to accrue revenues and build goodwill.

# The Buying/Selling Experience

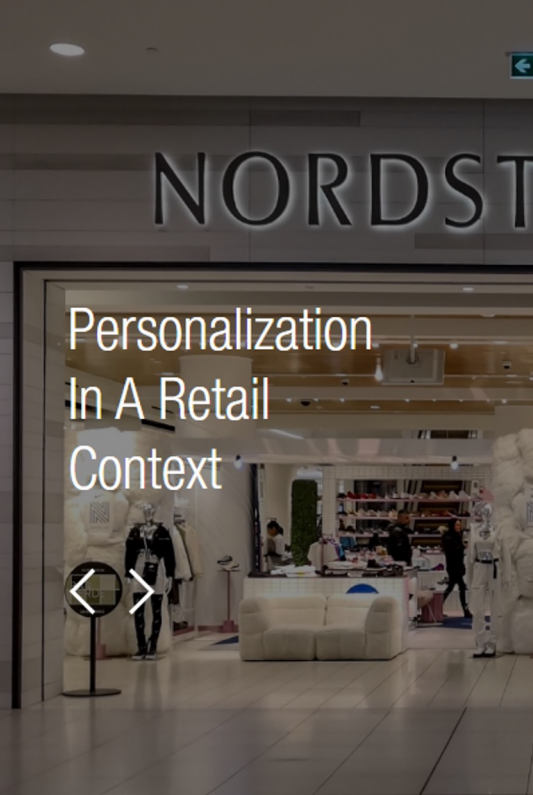
What is the buying/selling experience?

- The ease of navigating physical and digital stores
- The brand's visual identity and storytelling
- The quality of customer service
- Personalization of the purchase process
- Delivery and after-sales support
- Integration across physical and digital channels

The buying/selling experience is a strategic asset.

In franchising: the value of replicating the buying/selling experience.

# The Buying/Selling Experience *(cont.)*



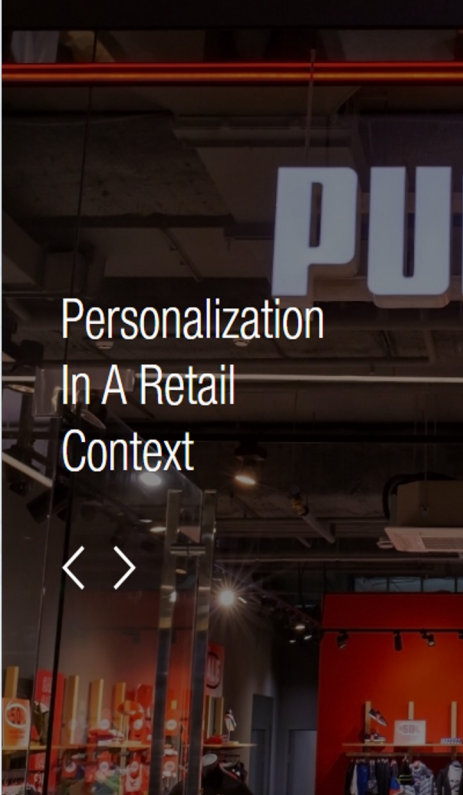
**NORDSTROM**

Personalization  
In A Retail  
Context

01

**NORDSTROM**

At Nordstrom's flagship, a stylist service affords shoppers the opportunity to book an appointment with a professional who will construct customized outfits. The experience includes access to private waiting and dressing rooms which further elevate the experience.



**PUMA**

Personalization  
In A Retail  
Context

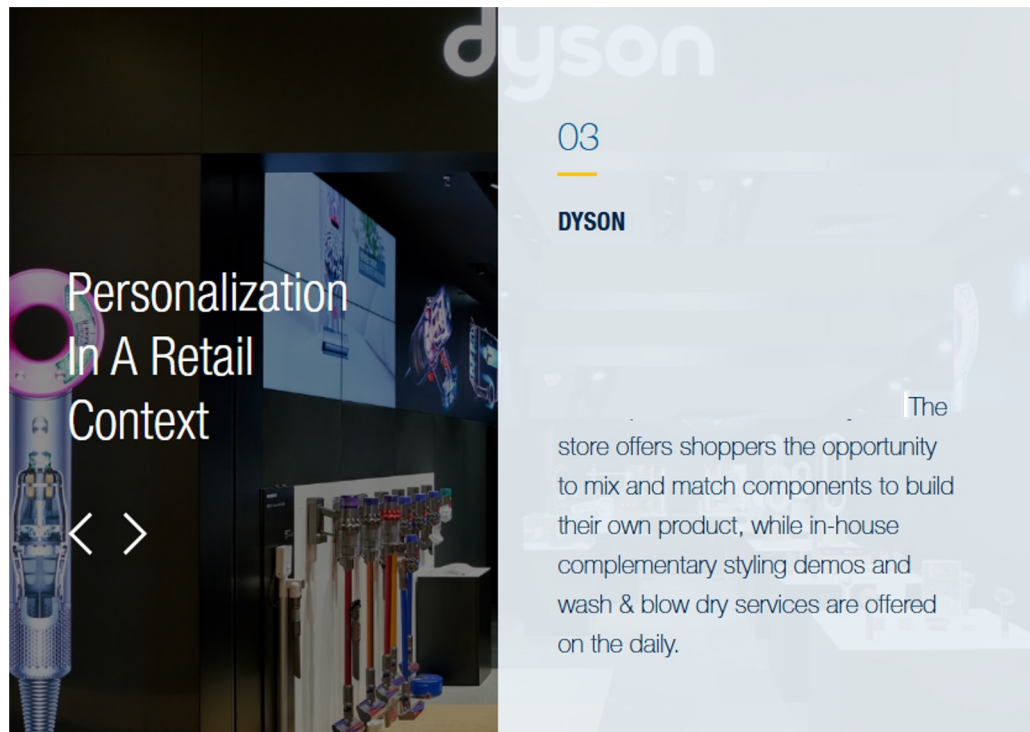
02

**PUMA**

Puma offers a similar level of service with their "Puma x YOU" collection, which allows customers to design their own clothes at the store, creating a personal experience from the start. The store also has two treadmills that allow customers to walk in new shoes before they make a purchase.



# The Buying/Selling Experience *(cont.)*



# The Legal Framework and Antitrust Considerations

- The EU reasoning: the single market objective
- Vertical agreements: hardcore restrictions vs. block-exempted provisions
  - Block-exempted: less severe restrictions relating to the manner of sales and advertisement, but not restricting the territories or customers to whom a distributor may sell





# Hardcore Restrictions

- Requiring distributor to re-direct enquiries
- Banning use of brand owner's trademark in distributor's online store
- Requiring brand owner's permission before making individual online transactions
- Banning use of online advertising



# Block-Exempted Provisions

- Ban of sales through third-party platforms/aggregators
- Regulating the quality and appearance of the online store
- Requiring operation of a physical store in addition to the online store
- Other exceptions:
  - Health and safety law
  - Franchising - restrictions strictly necessary for the functioning of the franchise system



# International Brands Facing Practical Problems

- How to harmonize brand strategy and policies across borders in compliance with EU law when different legal systems apply in the different countries
- Impact on a brand from one or more franchisees creating their own online platforms?
- More flexibility under the latest VBER?



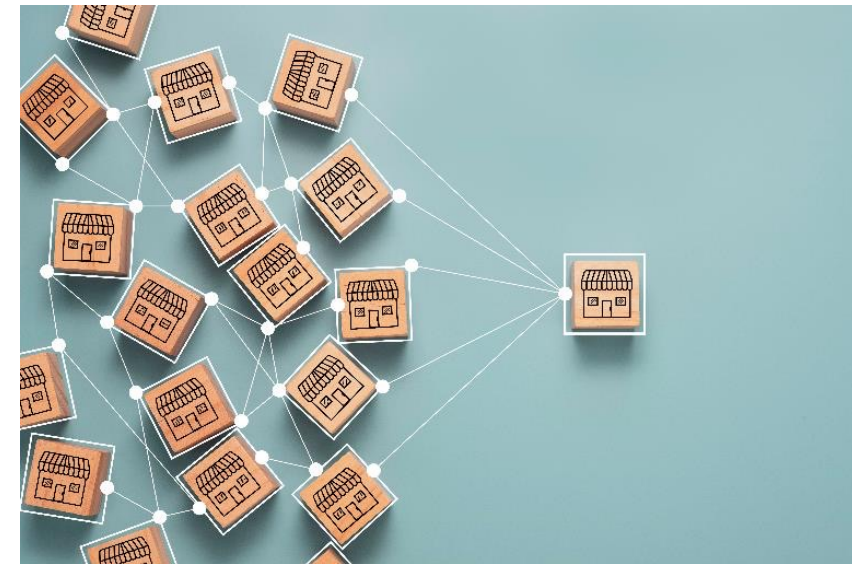
# How Can Franchisor Ensure Brand Integrity Online?

- Pick a lane: selective distribution system or exclusive distribution system



# What Franchisors Can Do

- Platform restrictions
- Sophisticated trademark guidelines
- Set website quality criteria
- Assist franchisees in developing high quality websites
- Develop franchisor-led loyalty program
- Have franchisor lead the way in data collection





# Is Online Delivery a Separate Franchise Program?

- Does online sales and advertising by brick-and-mortar franchisees negatively affect the quality of the customer experience?
- What if the franchisor sets up a separate franchise system for online sales only?



# The U.S. Perspective on Online Sales

- Antitrust/competition law doesn't set limitations on online sales by distributors/franchisors
- Franchise law in the U.S. are consumer protection laws
- Online sales regulation - a matter of contract



# The U.S. Perspective - Practical Solutions

- Common contract terms:
  - Requirement that franchisees use franchisor's platform and designated aggregators
  - Regulation of product selection and pricing - driven by high cost of use of third party platforms
  - Delivery territory restrictions - intended to safeguard product quality
- Antitrust law by necessity:
  - Passive sales: hard to restrict marketing to exactly franchisee's exclusive territory. Territory rights are often limited to physical location and delivery areas, not marketing

# Beyond the Coffee Shop - Sale of Services

Different scenarios:

- When a product/service is sold online, but consumed offline (taxi, food delivery)  
vs.
- When a service is sold online and consumed online (virtual tutoring services, language classes, psicologic therapy, armochromy)



# Geoblocking

**Can franchisors regulate their network based on geography using geoblocking?**

**RADIUS PROTECTION IN FRANCHISING  
VS.  
GEOBLOCKING PROVISIONS**





# Banning Third-Party Marketplaces

**Can franchisors ban the use of third-party marketplaces?**

VBER 2022 opening to restrictions for marketplaces

Transactional Platforms vs. Price Comparison or Advertising Platforms

# Relevant Case Law

**Case: De Neuville – Franchise Network Online Sales Restrictions (France, 2024)**

[https://www.autoritedelaconurrence.fr/sites/default/files/integral\\_texts/2024-02/24d02.pdf](https://www.autoritedelaconurrence.fr/sites/default/files/integral_texts/2024-02/24d02.pdf)

**French Competition Authority Decision No. 18-D-23 (24 October 2018) – Andreas Stihl SAS, Stihl Holding AG & Co KG**

<https://www.courdecassation.fr/decision/61f0f2417743e3330ccf07bb>

[https://www.autoritedelaconurrence.fr/sites/default/files/appealsd/2019-10/ca18d23\\_oct17.pdf](https://www.autoritedelaconurrence.fr/sites/default/files/appealsd/2019-10/ca18d23_oct17.pdf)

**Case AT.40428 – GUESS (European Commission, 2018)**

[https://ec.europa.eu/competition/antitrust/cases/dec\\_docs/40428/40428\\_1205\\_3.pdf](https://ec.europa.eu/competition/antitrust/cases/dec_docs/40428/40428_1205_3.pdf)

**Case C-230/16 – Coty Germany GmbH v Parfümerie Akzente GmbH (ECJ, 2017)**

<https://curia.europa.eu/juris/liste.jsf?num=C-230/16>

**Case C-439/09 – Pierre Fabre Dermo-Cosmétique (ECJ, 2011)**

<https://curia.europa.eu/juris/liste.jsf?language=en&num=C-439/09>

**Case C-59/08 – Copad SA v Christian Dior Couture SA (ECJ, 2009)**

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62008CJ0059>

[https://www.ippt.eu/sites/ippt/files/2009/IPPT20090423\\_ECJ\\_Copad\\_v\\_Dior.pdf](https://www.ippt.eu/sites/ippt/files/2009/IPPT20090423_ECJ_Copad_v_Dior.pdf)

# Thank you

