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Online selective distribution: E-commerce and consumer choice at risk

The European Commission is set to decide, this coming Tuesday 20th April 2010, on a review of competition rules applying to supply and distribution agreements, including with regard to online sales. The revised rules will have a major impact on the development of e-commerce in the EU and will be crucial in ensuring competition and innovation to the benefit of European consumers.

However, some of the new provisions, if adopted, will introduce discriminatory rules between off-line and on-line commerce and will seriously damage consumer welfare. In particular, provisions that would allow a manufacturer to require its distributors to have a 'brick and mortar shop' before engaging in online distribution are not justified and will be detrimental to cross-border online commerce and to the establishment of a single online market.

Monique Goyens, Director General of BEUC, the European Consumers' Organisation, said:

"We strongly oppose the inclusion of any kind of so-called "brick and mortar shop" clause. Requiring the existence of an actual, physical shop to allow a distributor to sell online will end up discriminating against certain channels of distribution and will result in less consumer choice. It would also undoubtedly hinder innovation. Indeed, preventing consumers from purchasing online their favourite clothes or cosmetics brand from a company that has an 'online-only' business model, will limit their choice and lead to higher prices and less innovative goods. The argument that consumers need in all circumstances the advice that comes with a physical shop is just an unfounded excuse to limit competition.

"We are also concerned that selective distribution is used for everyday products for which there is no objective justification to be covered by such agreements. Such practices restrict the availability of those products via online commerce channels and prevent competition to the detriment of consumers.

"Consumers should be able to decide how they will purchase their goods; manufacturers and retailers should respond to consumers' preferences rather than dictate the terms on which consumers may access products. Moreover, knowing that currently 61% of attempted online purchases fail, including for reasons related to unfair restrictions imposed in selective distribution agreements, the European Commission should seize this opportunity to update current rules so as to ensure that e-commerce becomes a key 21st century distribution channel."

ENDS

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